

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
	)	
KANSAS GAS AND ELECTRIC COMPANY	)	Docket No. 50-482
KANSAS CITY POWER AND LIGHT COMPANY	)	
WOLF CREEK NUCLEAR OPERATING CORPORATION	)	
	)	
(Wolf Creek Generating Station, Unit No. 1)	)	

ORDER APPROVING TRANSFER OF LICENSE AND CONFORMING AMENDMENT

I.

Wolf Creek Nuclear Operating Corporation (WCNOC) is authorized to act as agent for the three joint owners of the Wolf Creek Generating Station, Unit 1 (WCGS) and has exclusive responsibility and control over the physical construction, operation and maintenance of the facility as reflected in Facility Operating License No. NPF-42. Kansas Gas and Electric Company (KGE) and Kansas City Power and Light Company (KCPL) each hold 47 percent possessory interests in WCGS. Kansas Electric Power Cooperative, Inc. (KEPCo) holds a 6 percent possessory interest. The Nuclear Regulatory Commission issued Facility Operating License No. NPF-42 on June 4, 1985, pursuant to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR Part 50). The facility is located in Coffey County, Kansas.

II.

By letter dated October 27, 1998, WCNOC forwarded an application requesting approval of the proposed transfer of KGE's and KCPL's rights under the WCGS operating

license, and requesting approval of a conforming license amendment to reflect the transfer. The initial application was supplemented on November 10, 1998 (collectively referred to as the application unless otherwise noted).

According to the application, KGE and KCPL have agreed to sell each of their 47 percent ownership interests (94 percent in total) in WCGS to Westar Energy, Inc., subject to obtaining all necessary regulatory approvals. WCNOG would remain as the Managing Agent for the joint owners of the facility and would continue to have exclusive responsibility for the management, operation and maintenance of WCGS. The conforming amendment would remove KGE and KCPL from the facility operating license, including the antitrust license conditions, and would add Westar Energy, Inc. in their place.

Approval of the transfer and conforming license amendment was requested pursuant to 10 CFR 50.80 and 50.90. Notice of the application for approval and an opportunity for a hearing was published in the Federal Register on January 29, 1999 (64 FR 4726). A supplemental correction notice was published on February 8, 1999 (64 FR 6119), clarifying that hearing requests concerning the application were due by February 18, 1999. On that date, KEPCo filed a hearing request. The Commission denied the request on June 18, 1999. Kansas Gas and Electric Company, et al. (Wolf Creek Generating Station, Unit 1), CLI-99-19, 49 NRC 441 (1999).

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission give its consent in writing. Upon review of the information submitted in the application, and other information before the Commission, the NRC staff has determined that Westar Energy, Inc. is qualified to hold the license to the extent now held by KGE and KCPL, and that the transfer of the license,

to the extent held by KGE and KCPL, to Westar Energy, Inc., is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for amendment to Facility Operating License No. NPF-42 complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed amendment can be conducted without endangering the health and safety of the public, and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed amendment will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendment is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by a safety evaluation which is Enclosure 3 to the staff's letter dated October 29, 1999.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), and 2234, and 10 CFR 50.80, IT IS HEREBY ORDERED that the license transfer referenced above is approved, subject to the following conditions:

- (1) Westar Energy, Inc. shall, prior to the completion of the subject merger and transfer, provide the Director, Office of Nuclear Reactor Regulation, satisfactory documentary evidence that Westar Energy, Inc. has obtained the appropriate

amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.

- (2) After receipt of all required regulatory approvals of the transfer of KGE's and KCPL's interests in WCGS to Westar Energy, Inc., KGE, KCPL, and WCNOG shall inform the Director, Office of Nuclear Reactor Regulation, in writing of such receipt within five business days, and of the date of the closing of the transfer no later than seven business days prior to the date of closing. Should the transfer not be completed by October 30, 2000, this Order shall become null and void, provided, however, on application and for good cause shown, such date may be extended.

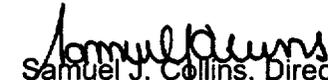
IT IS FURTHER ORDERED that, consistent with 10 CFR 2.1315(b), a license amendment that makes changes, as indicated in Enclosures 2 and 3 of the staff's letter dated October 29, 1999, to conform the license to reflect the subject license transfer is approved. Such amendment shall be issued and made effective at the time the proposed license transfer is completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated October 27, 1998, supplement dated November 10, 1998, and staff's letter dated October 29, 1999, with enclosures, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public

document room located at Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801, and the Washburn University School of Law Library, Topeka, Kansas 66621.

FOR THE NUCLEAR REGULATORY COMMISSION

  
Samuel J. Collins, Director  
Office of Nuclear Reactor Regulation

Dated at Rockville, Maryland,  
this 29<sup>th</sup> day of October 1999



UNITED STATES  
**NUCLEAR REGULATORY COMMISSION**  
WASHINGTON, D.C. 20555-0001

WOLF CREEK NUCLEAR OPERATING CORPORATION

WOLF CREEK GENERATING STATION

DOCKET NO. 50-482

AMENDMENT TO FACILITY OPERATING LICENSE

Amendment No.  
License No. NPF-42

1. The Nuclear Regulatory Commission (the Commission) has found that:
  - A. The application for amendment to the Wolf Creek Generating Station (the facility) Facility Operating License No. NPF-42 filed by the Wolf Creek Nuclear Operating Corporation (the Corporation), et. al., dated October 27, 1998, as supplemented November 10, 1998, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I;
  - B. The facility will operate in conformity with the application, as amended, the provisions of the Act, and the rules and regulations of the Commission;
  - C. There is reasonable assurance (i) that the activities authorized by this amendment can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the Commission's regulations;
  - D. The issuance of this license amendment will not be inimical to the common defense and security or to the health and safety of the public; and
  - E. The issuance of this amendment is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

2. Accordingly, Facility Operating License No. NPF-42 is amended as indicated in the attachment to this license amendment.
3. The license amendment is effective as of its date of issuance.

FOR THE NUCLEAR REGULATORY COMMISSION

Samuel J. Collins, Director  
Office of Nuclear Reactor Regulation

Attachment: Changes to the Operating License

Date of Issuance:

ATTACHMENT TO LICENSE AMENDMENT NO.

FACILITY OPERATING LICENSE NO. NPF-42

DOCKET NO. 50-482

Replace the following pages of Facility Operating License No. NPF-42 with the attached revised pages. The revised pages are identified by amendment number and contain vertical lines indicating the areas of change.

REMOVE

INSERT

1  
2  
3  
4

1  
2  
3  
4

1 (Appendix C)  
10 (Appendix C)

1 (Appendix C)  
10 (Appendix C)



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

WESTAR ENERGY, INC.\*

KANSAS ELECTRIC POWER COOPERATIVE, INC.

WOLF CREEK NUCLEAR OPERATING CORPORATION

DOCKET NO. STN 50-482

WOLF CREEK GENERATING STATION, UNIT NO. 1

FACILITY OPERATING LICENSE

License No. NPF-42

1. The Nuclear Regulatory Commission (the Commission) has found that:
  - A. The application for license filed by Kansas Gas and Electric Company, Kansas City Power & Light Company, and Kansas Electric Power Cooperative, Inc., complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations set forth in 10 CFR Chapter I, and all required notifications to other agencies or bodies have been duly made;
  - B. Construction of the Wolf Creek Generating Station, Unit 1 (the facility) has been substantially completed in conformity with Construction Permit No. CPPR-147 and the application, as amended, the provisions of the Act, and the regulations of the Commission;
  - C. The facility will operate in conformity with the application, as amended, the provisions of the Act, and the regulations of the Commission, (except as exempted from compliance in Section 2.D below);
  - D. There is reasonable assurance: (i) that the activities authorized by this operating license can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the Commission's regulations set forth in 10 CFR Chapter I, (except as exempted from compliance in Section 2D below);
  - E. Wolf Creek Nuclear Operating Corporation\*\* is technically qualified to engage in the activities authorized by this license in accordance with the Commission's regulations set forth in 10 CFR Chapter I;

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\* Westar Energy, Inc., as a result of mergers involving Kansas Gas and Electric Company and Kansas City Power & Light Company, owns the 94% undivided interest in the Wolf Creek Nuclear Operating Corporation and the Wolf Creek Generating Station previously owned by Kansas Gas and Electric Company and Kansas City Power & Light Company.

\*\*Wolf Creek Nuclear Operating Corporation is authorized to act as agent for Westar Energy, Inc. and Kansas Electric Power Cooperative, Inc., and has exclusive responsibility and control over the physical construction, operation and maintenance of the facility.

- F. Westar Energy, Inc. and Kansas Electric Power Cooperative, Inc. (KEPCO) have satisfied the applicable provisions of 10 CFR Part 140 "Financial Protection Requirements and Indemnity Agreements," of the Commission's regulations;
  - G. The issuance of this license will not be inimical to the common defense and security or to the health and safety of the public;
  - H. After weighing the environmental, economic, technical and other benefits of the facility against environmental and other costs and considering available alternatives, the issuance of this Facility Operating License No. NPF-42, subject to the conditions for protection of the environment set forth in the Environmental Protection Plan attached as Appendix B, is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied; and
  - I. The receipt, possession, and use of source, byproduct and special nuclear material as authorized by this license will be in accordance with the Commission's regulations in 10 CFR Parts 30, 40 and 70.
2. Pursuant to approval by the Nuclear Regulatory Commission at a meeting on June 3, 1985, the License for Fuel Loading and Low Power Testing, License No. NPF-32, issued on March 11, 1985, is superseded by Facility Operating License No. NPF-42 hereby issued to Wolf Creek Nuclear Operating Corporation, Westar Energy, Inc., and Kansas Electric Power Cooperative, Inc. (the licensees) to read as follows:
- A. The license applies to the Wolf Creek Generating Station, Unit No. 1, a pressurized water nuclear reactor and associated equipment (the facility), owned by Westar Energy, Inc. and Kansas Electric Power Cooperative, Inc., and operated by the Wolf Creek Nuclear Operating Corporation. The facility is located in Coffey County, Kansas, approximately 28 miles east-southeast of Emporia, Kansas, and is described in the licensee's "Final Safety Analysis Report," as supplemented and amended, and in the licensees' Environmental Report, as supplemented and amended.
  - B. Subject to the conditions and requirements incorporated herein, the Commission hereby licenses Wolf Creek Nuclear Operating Corporation (the Operating Corporation), Westar Energy, Inc., and KEPCO:

- (1) Pursuant to Section 103 of the Act and 10 CFR Part 50 "Domestic Licensing of Production and Utilization Facilities," the Operating Corporation, to possess, use and operate the facility at the designated location in Coffey County, Kansas, in accordance with the procedures and limitations set forth in this license;
  - (2) Westar Energy, Inc. and KEPCO to possess the facility at the designated location in Coffey County, Kansas, in accordance with the procedures and limitations set forth in this license.
  - (3) The Operating Corporation, pursuant to the Act and 10 CFR Part 70, to receive, possess and use at any time special nuclear material as reactor fuel, in accordance with the limitations for storage and amounts required for reactor operation, as described in the Final Safety Analysis Report, as supplemented and amended.
  - (4) The Operating Corporation, pursuant to the Act and 10 CFR Parts 30, 40 and 70, to receive, possess, and use at any time any byproduct, source and special nuclear material as sealed neutron sources for reactor startup, sealed sources for reactor instrumentation and radiation monitoring equipment calibration, and as fission detectors in amounts as required;
  - (5) The Operating Corporation, pursuant to the Act and 10 CFR Parts 30, 40 and 70, to receive, possess, and use in amounts as required any byproduct, source or special nuclear material without restriction to chemical or physical form, for sample analysis or instrument calibration or associated with radioactive apparatus or components; and
  - (6) The Operating Corporation, pursuant to the Act and 10 CFR Parts 30, 40 and 70, to possess, but not separate, such byproduct and special nuclear materials as may be produced by the operation of the facility.
- C. This license shall be deemed to contain and is subject to the conditions specified in the Commission's regulations set forth in 10 CFR Chapter I and is subject to all applicable provisions of the Act and to the rules, regulations, and orders of the Commission now or hereafter in effect; and is subject to the additional conditions specified or incorporated below:
- (1) Maximum Power Level  
  
The Operating Corporation is authorized to operate the facility at reactor core power levels not in excess of 3565 megawatts thermal (100% power) in accordance with the conditions specified herein.

(2) Technical Specifications and Environmental Protection Plan

The Technical Specifications contained in Appendix A, as revised through Amendment No. , and the Environmental Protection Plan contained in Appendix B, both of which are attached hereto, are hereby incorporated in the license. The Corporation shall operate the facility in accordance with the Technical Specifications and the Environmental Protection Plan.

(3) Antitrust Conditions

Westar Energy, Inc. shall comply with the antitrust conditions delineated in Appendix C to this license.

(4) Environmental Qualification (Section 3.11, SSER #4, Section 3.11, SSER #5)\*

All electrical equipment within the scope of 10 CFR 50.49 shall be qualified by November 30, 1985.

(5) Fire Protection (Section 9.5.1, SER, Section 9.5.1.8, SSER #5)

- (a) The Operating Corporation shall maintain in effect all provisions of the approved fire protection program as described in the SNUPPs Final Safety Analysis Report for the facility through Revision 17, the Wolf Creek site addendum through Revision 15, and as approved in the SER through Supplement 5, subject to provisions b & c below.
- (b) The licensee may make changes to the approved fire protection program without prior approval of the Commission only if those changes would not adversely affect the ability to achieve and maintain safe shutdown in the event of a fire.

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\*The parenthetical notation following the title of many license conditions denotes the section of the Safety Evaluation Report and/or its supplements wherein the license condition is discussed.

APPENDIX C

WOLF CREEK, UNIT 1

ANTITRUST CONDITIONS FOR

WESTAR ENERGY, INCORPORATED

1. As used herein:

(a) "Licensee" means Westar Energy, Incorporated.

(b) "Licensee's Service Area" means those counties located in whole or in part within the area certificated to Licensee by the appropriate state regulatory commission.

(c) "Bulk Power" means the electric power, and any attendant energy, supplied or made available at transmission or subtransmission voltage by one entity to another.

(d) "Emergency support" is capacity and energy as available from one system, and as needed by another system to replace capacity and energy made unavailable due to forced outages of generating equipment or transmission facilities.

(e) "Maintenance support" is capacity and energy planned by one system to be made available to another system to replace capacity and energy made unavailable due to maintenance of generating equipment or transmission facilities.

(f) "Entity" means a financially responsible private or public corporation, governmental agency or authority, municipality, cooperative, or lawful association of any of the foregoing, owning, contractually controlling, or operating, or in good faith proposing to own, contractually control, or operate, facilities for the generation and transmission of electricity for bulk power supply which meets each of the following criteria: (1) its existing or proposed facilities are technically feasible of interconnection with those of Licensee; (2) with the exception of municipalities, cooperatives, government agencies or authorities it is, or upon commencement of operations will be, a public utility subject to regulation with respect to rates and services under the laws of Kansas.

APPENDIX C

WOLF CREEK, UNIT 1

ANTITRUST CONDITIONS FOR

WESTAR ENERGY, INCORPORATED

2. As used herein:

(a) "Licensee" means Westar Energy, Incorporated.

(b) "Licensee's Service Area" means those portions of the States of Missouri and Kansas which are certificated to licensee by the respective state regulatory commissions. An entity shall be deemed to be in the "Licensee's Service Area" if it has electric power generation, transmission or distribution facilities located in whole or in part in or adjacent to the above-described area or in counties served in part at retail by Licensee.

(c) "Bulk Power" means the electric power, and any attendant energy, supplied or made available at transmission or subtransmission voltage by one entity to another.

(d) "Entity" means person, a private or public corporation, a municipality, a cooperative, a joint stock association, business trust or lawful association of any of the foregoing constituting, a separate legal entity owning, operating or proposing to own or operate equipment or facilities for the generation, transmission, or distribution of electricity, provided that, except for municipalities and cooperatives, an "entity" is restricted to those which are or will be a public utility under the laws of the state in which the entity transacts business or under the Federal Power Act and are or will be providing electric service under a contract or rate schedule on file with and subject to the regulation of a state regulatory commission or the Federal Power Commission.

(e) "Cost" means any and all operating, maintenance, general and administrative expenses, together with any and all ownership costs, which are reasonably allocable to the transaction consistent with industry practices. Cost shall include a reasonable return on Licensee's investment. The



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

TRANSFER OF FACILITY OPERATING LICENSE

KANSAS GAS AND ELECTRIC COMPANY AND

KANSAS CITY POWER AND LIGHT COMPANY TO WESTAR ENERGY, INC. AND

APPROVAL OF CONFORMING AMENDMENT

DOCKET NO. 50-482

WOLF CREEK GENERATING STATION UNIT NO. 1

1.0 INTRODUCTION

Under cover of a letter dated October 27, 1998, Wolf Creek Nuclear Operating Corporation (WCNOC), Kansas Gas and Electric Company (KGE), Kansas City Power and Light Company (KCPL), and NKC, Inc., submitted an application pursuant to 10 CFR 50.80 and 10 CFR 50.90, for consent by the U.S. Nuclear Regulatory Commission (NRC or the Commission) to the transfer of the possessory licenses for Wolf Creek Generating Station Unit 1 (WCGS) to the extent held by KGE and KCPL, and approval of a conforming license amendment. The transfer would be to NKC, Inc., to be renamed Westar Energy, Inc. (Westar Energy). Westar Energy is a new company which will acquire the electric utility operating assets of Western Resources, Inc. (the parent of KGE), KGE, and KCPL. KGE and KCPL each own a 47% interest in WCGS. The remaining 6% interest in Wolf Creek is owned by Kansas Electric Power Cooperative, Inc., which is not involved in the above transaction. WCNOC is the exclusive licensed operator of the facility, and will remain so following the transfer.

The application stated that the purpose of the proposed merger "is to achieve benefits for Western Resources' and KCPL's shareholders, customers, and communities that would not be achievable if they were to remain separate companies." The proposed merger will create a stronger, more competitive enterprise that will be better positioned for the evolving restructuring of the electric and gas industries that is occurring as the result of both federal and state initiatives, as well as market changes, according to the applicants.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred directly or indirectly through transfer of control of the license, unless the Commission gives its consent in writing. Such action is contingent upon the Commission's determination that the transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders of the Commission.

## 2.0 FINANCIAL QUALIFICATIONS ANALYSIS

The application states that following the proposed merger, Westar Energy will be a regulated electric utility, and will generate, transmit, and distribute electricity and recover costs through rates authorized by the Kansas Corporation Commission, the Missouri Public Service Commission, and the Federal Energy Regulatory Commission. As an electric utility, Westar Energy is exempt from further financial qualifications review, pursuant to 10 CFR 50.33(f).

The application also states that decommissioning funding is currently being provided by deposits made to external sinking trust funds by both KGE and KCPL in accordance with their respective 47% ownership interests in WCGS. The funds will be transferred to Westar Energy as part of the merger transaction. The application further states that Westar Energy will file a certificate of financial assurance under 10 CFR 50.75 certifying that sufficient decommissioning funds will be available for its 94% ownership share transferred to it as part of the transaction. This assurance will be provided through an external sinking fund made up of current trust funds and future payments to the trust fund by Westar Energy.

Based on the above, the NRC staff finds that Westar Energy will be financially qualified to hold the proposed 94 percent interest in the facility possessory license following the proposed transfer.

## 3.0 TECHNICAL QUALIFICATIONS

The application states that the proposed merger of KGE and KCPL into Westar Energy will not affect the management of nuclear operations or WCNOG's technical qualifications. Following the proposed merger, WCNOG will remain exclusively responsible for the plant's operation with no changes to its management organization or technical staff as a result of the merger. Accordingly, the NRC staff concludes that the proposed transfer of possessory interests to Westar Energy will not adversely impact the technical qualifications of WCNOG.

## 4.0 ANTITRUST

In response to the notice of consideration of approval of the application published in the *Federal Register* on January 29, 1999 (64 FR 4726), Kansas Electric Power Cooperative, Inc. (KEPCO) filed a hearing request and petition for leave to intervene. KEPCO opposed the proposed transfer on antitrust grounds and sought an antitrust review under section 105c of the Atomic Energy Act. Following consideration of briefs filed by the applicants, KEPCO, and other interested entities and persons, the Commission decided that "the Atomic Energy Act does not require or even authorize antitrust reviews of post-operating license transfer applications, and that such reviews are inadvisable from a policy perspective." *Kansas Gas and Electric Co., et al.* (Wolf Creek Generating Station), CLI-99-19, 49 NRC 441, 468 (1999). The Commission, accordingly, dismissed KEPCO's petition. With respect to the appropriate disposition of the existing antitrust license conditions, which the applicants requested be amended to apply to the proposed transferee (essentially the existing licensees KGE and KCPL combined), the Commission requested the views of the parties and other interested persons. Following the receipt of the requested views, the Commission approved the amendment of the antitrust license conditions to substitute Westar Energy in place of KGE and KCPL (see Section 8.0 herein) as an administrative matter.

In light of the foregoing, the staff did not perform an antitrust review in this case because of the determination by the Commission in CLI-99-19 that the Atomic Energy Act does not require or authorize such reviews once an operating license is initially granted.

#### 5.0 FOREIGN OWNERSHIP, CONTROL, OR DOMINATION

The application states that Westar Energy, following the transfer, will be a corporation organized and existing under the laws of the State of Kansas. Its headquarters will be located in Kansas City, Missouri and it will do business in Kansas and Missouri. The board and executive officers of Westar Energy will be drawn from the current directors and executive officers of Western Resources, KGE, and KCPL, who are all U.S. citizens.

Under the merger agreement, KCPL shareholders will receive common shares of both Westar Energy and Western Resources. The KGE shares held by Western Resources will be converted to Westar Energy stock such that Western Resources will own approximately 80.1% of the outstanding Westar Energy common stock. According to the application, following the proposed merger, Westar Energy will not be owned, controlled or dominated by an alien, foreign corporation, or foreign government.

The NRC staff does not know or have any reason to believe that the proposed merger will result in Westar Energy being owned, controlled, or dominated by foreign interests.

#### 6.0 INSURANCE

The provisions of the Price-Anderson Act (Section 170 of the Atomic Energy Act) and 10 CFR Part 140 require that Westar Energy be added to the current WCGS indemnity agreement. In accordance with these requirements, Westar Energy must take the necessary steps to ensure that primary insurance of \$200 million is in place, and must participate in the secondary retrospective insurance pool, once it becomes a licensee. These requirements can be met by purchasing insurance policies from the nuclear liability insurance pool, American Nuclear Insurers. Westar Energy also will be required to maintain property insurance as specified in 10 CFR 50.54(w). The staff does not have any reason to believe that Westar Energy will be unable to meet the statutory and regulatory insurance requirements applicable to all nuclear power reactor licensees.

Consistent with NRC practice, the staff will require Westar Energy to provide satisfactory documentary evidence that Westar Energy has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations, prior to the issuance of the amended license reflecting Westar Energy as the licensee. Because the issuance of the amended license is directly tied to the consummation of the transfer of the ownership interests in WCGS, the order approving the transfer should contain a condition providing that prior to consummation of the transfer, Westar Energy shall provide satisfactory documentary evidence to the staff that Westar Energy has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.

## 7.0 CONCLUSION REGARDING LICENSE TRANSFER

In view of the foregoing, the NRC staff concludes that Westar Energy will be financially qualified to hold the 94 percent interest in the WCGS license. Also, the proposed transfer will not adversely impact the technical qualifications of WCNOG. In addition, there do not appear to be any problematic foreign ownership considerations that would arise from the proposed transfer. As discussed earlier, no antitrust review is authorized at this time. Therefore, the staff finds that Westar Energy will be qualified to hold the WCGS operating license to the extent proposed in the application and that the transfer of the license, to the extent held by KGE and KCPL to Westar Energy, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the condition set forth herein.

## 8.0 CONFORMING AMENDMENT

As stated earlier, the application requested an amendment to the WCGS operating license, including the antitrust license conditions, to remove references to KGE and KCPL, and replace them with references to Westar Energy.

The purpose of the proposed license amendment is to conform the license to accurately reflect the proposed transfer. The Commission has already determined that, in this case, the existing antitrust license conditions that apply to the current licensees requesting approval of the transfer are to be amended to substitute Westar Energy as an administrative matter if the transfer is approved. See letter from S. Collins to W. Miller (October 20, 1999); Staff Requirements Memorandum -- SECY-99-220 (October 1, 1999). The proposed amendment makes the appropriate substitutions throughout the license, presents no safety questions, and is administrative in nature under the specific facts and circumstances presented. Accordingly, the proposed amendment is acceptable.

## 9.0 STATE CONSULTATION

In accordance with the Commission's regulations, the Kansas State Official was notified of the proposed issuance of the amendment. The State official had no comments.

## 10.0 ENVIRONMENTAL CONSIDERATION

The application is for approval of the transfer of a license issued by the NRC, and for approval of a conforming amendment. Accordingly, the action involved meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(21). Pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with approval of the application.

## 11.0 CONCLUSION REGARDING PROPOSED AMENDMENT

The Commission has concluded, based on the considerations discussed above, that: (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the

Commission's regulations, and (3) the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

Principal Contributor: M. Davis

Date: