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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-Q

x **QUARTERLY REPORT PURSUANT TO SECTION 13 or 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended September 30, 2002

OR

o **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from _________ to _________

Commission File Number 1-3523

Westar Energy, Inc.

(Exact name of registrant as specified in its charter)

Kansas	48-0290150
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification Number)

818 South Kansas Avenue
Topeka, Kansas 66612
(785) 575-6300

(Address, including Zip code and telephone number, including area code, of registrant's principal executive offices)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes x No o

Indicate the number of shares outstanding of each of the registrant's classes of common stock, as of the latest practicable date.

Common Stock, par value $5.00 per share	71,481,021 Shares
(Class)	(Outstanding at November 6, 2002)

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INTRODUCTORY NOTE

As announced in our press release of November 7, 2002, our board of directors has placed David C. Wittig, our Chairman of the Board, President and Chief Executive Officer, on administrative leave without pay from all of his positions with us or any of our affiliates following his indictment by a federal grand jury in Topeka, Kansas, for actions arising from his personal dealings with the former president of a Topeka, Kansas, bank. We also announced that our board of directors intends to appoint an acting President and Chief Executive Officer promptly. Currently, a committee appointed by our board of directors comprised of our senior executive officers is performing functions similar and equivalent to those performed by a principal executive officer or chief executive officer. As a result, the principal and chief executive officer certifications required by Rule 13a-14 under the Securities Exchange Act of 1934 and Section 906 of the Sarbanes-Oxley Act of 2002 which accompany this Form 10-Q are signed by the members of such committee.

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FORWARD-LOOKING STATEMENTS

Certain matters discussed in this Form 10-Q are “forward-looking statements.” The Private Securities Litigation Reform Act of 1995 has established that these statements qualify for safe harbors from liability. Forward-looking statements may include words like we “believe,” “anticipate,” “expect,” or words of similar meaning. Forward-looking statements describe our future plans, objectives, expectations or goals. Such statements address future events and conditions concerning:

- capital expenditures,
- earnings,
- liquidity and capital resources,
- litigation,
- possible corporate restructurings, mergers, acquisitions and dispositions,
- compliance with debt and other restrictive covenants,
- interest and dividends,
- Protection One, Inc.’s financial condition and its impact on our consolidated results,
- possible future impairment charges,
- environmental matters,
- nuclear operations,
- ability to enter new markets successfully and capitalize on growth opportunities in non-regulated businesses,
- events in foreign markets in which investments have been made and
- the overall economy of our service area.

What happens in each case could vary materially from what we expect because of such things as:

- electric utility deregulation or re-regulation,
- ongoing municipal, state and federal activities,
- future economic conditions,
- changes in accounting requirements and other accounting matters,
- changing weather,
- rate and other regulatory matters, including the impact of the November 8, 2002 order of the Kansas Corporation Commission requiring our financial and corporate restructuring,
- the impact of changes and downturns in the energy industry and the market for trading wholesale electricity,
- the proposed sale of our interests in ONEOK, Inc.,
- the federal grand jury subpoena by the United States Attorney’s Office requesting certain information,
- the inquiry by the Securities and Exchange Commission into the restatement of our financial statements and related announcement of the reaudit of our 2001 and 2000 financial statements,
- political, legislative and regulatory developments,
- amendments or revisions to our current business and financial plans,
- regulatory, legislative and judicial actions,
- regulated and competitive markets,
- the impact of the indictment of our Chief Executive Officer,
- the impact of changes in the London Interbank offer rate (LIBOR) on the fair value of our swap transactions, changes in the 10-year United States Treasury rates and the corresponding impact on the fair value of our call option contract and other circumstances affecting anticipated operations, sales and costs.

These lists are not all-inclusive because it is not possible to predict all possible factors.

See “Item 1. Business — Risk Factors” in our Annual Report on Form 10-K for the year ended December 31, 2001, for additional information on matters that could impact our operations and financial results. Any forward-looking statement speaks only as of the date such statement was made, and we do not undertake any obligation to update any forward-looking statement to reflect events or circumstances after the date on which such statement was made except as required by applicable laws or regulations.

PART I. Financial Information
ITEM 1. FINANCIAL STATEMENTS

WESTAR ENERGY, INC.
CONSOLIDATED BALANCE SHEETS
(Dollars in Thousands)
(Unaudited)

	September 30, 2002	December 31, 2001
ASSETS		
CURRENT ASSETS:		
Cash and cash equivalents	$ 150,494	$ 96,388
Restricted cash	27,901	15,495
Accounts receivable, net	116,507	96,824
Inventories and supplies	144,141	145,000
Energy trading contracts	52,706	71,421
Deferred tax assets	6,993	23,284
Prepaid expenses and other	56,991	54,514
Total Current Assets	555,733	502,926
PROPERTY, PLANT AND EQUIPMENT, NET	4,004,045	4,044,366
OTHER ASSETS:		
Restricted cash	175,212	38,515
Investment in ONEOK	702,387	598,929
Customer accounts, net	424,645	813,733
Goodwill, net	181,834	879,926
Regulatory assets	390,639	358,025
Energy trading contracts	13,868	15,247
Other	241,621	233,927
Total Other Assets	2,130,206	2,938,302
ASSETS OF DISCONTINUED OPERATIONS	—	22,938
TOTAL ASSETS	$ 6,689,984	$ 7,508,532
LIABILITIES AND SHAREHOLDERS' EQUITY		
CURRENT LIABILITIES:		
Current maturities of long-term debt	$ 194,591	$ 160,829
Short-term debt	3,969	222,300
Accounts payable	102,945	122,968
Accrued liabilities	232,487	216,017
Accrued income taxes	102,854	35,048
Deferred security revenues	47,117	47,891
Energy trading contracts	54,687	67,859
Other	65,811	24,570
Total Current Liabilities	804,461	897,482
LONG-TERM LIABILITIES:		
Long-term debt, net	3,197,588	2,978,450
Western Resources obligated mandatorily redeemable preferred securities of subsidiary trusts holding solely company subordinated debentures	216,498	220,000
Deferred income taxes and investment tax credits	812,101	924,178
Minority interests	69,255	166,850
Deferred gain from sale-leaseback	165,595	174,466
Energy trading contracts	5,396	16,500
Other	330,071	285,181
Total Long-Term Liabilities	4,796,504	4,765,625
LIABILITIES OF DISCONTINUED OPERATIONS	—	1,364
COMMITMENTS AND CONTINGENCIES		
SHAREHOLDERS' EQUITY:		

Cumulative preferred stock, par value $100 per share; authorized 600,000 shares; issued 248,576 shares; outstanding 214,363 shares and 239,364 shares, respectively	21,436	23,936
Common stock, par value $5 per share; authorized 150,000,000 shares; issued 92,379,938 shares and 86,205,417 shares, respectively	461,900	431,027
Paid-in capital	1,253,801	1,196,763
Unearned compensation	(11,173)	(21,920)
Loans to officers	(2,020)	(1,973)
Retained earnings (accumulated deficit)	(152,927)	606,502
Treasury stock, at cost, 21,031,518 and 15,097,987 shares, respectively	(463,220)	(364,901)
Accumulated other comprehensive loss, net	(18,778)	(25,373)
Total Shareholders' Equity	1,089,019	1,844,061
TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY	$ 6,689,984	$ 7,508,532

The accompanying notes are an integral part of these consolidated financial statements.

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WESTAR ENERGY, INC.
CONSOLIDATED STATEMENTS OF INCOME
(Dollars in Thousands, Except Per Share Amounts)
(Unaudited)

	Three Months Ended September 30, 2002	Three Months Ended September 30, 2001
SALES:		
Energy	$ 442,145	$ 417,639
Monitored Services	86,970	95,851
Total Sales	529,115	513,490
COST OF SALES:		
Energy	114,628	129,001
Monitored Services	28,239	28,687
Total Cost of Sales	142,867	157,688
GROSS PROFIT	386,248	355,802
OPERATING EXPENSES:		
Operating and maintenance	93,102	84,817
Depreciation and amortization	67,134	102,975
Selling, general and administrative	72,485	82,409
Gain on dispositions of monitored services operations	—	(4,861)
Total Operating Expenses	232,721	265,340
INCOME FROM OPERATIONS	153,527	90,462
OTHER INCOME (EXPENSE):		
Investment earnings	14,214	11,991
Gain on extinguishment of debt	1,887	14,236
Minority interests	794	3,225
Other	(33,142)	(3,283)
Total Other Income (Expense)	(16,247)	26,169
INTEREST EXPENSE:		
Interest expense on long-term debt	61,816	55,267
Interest expense on short-term debt and other	8,339	11,358
Total Interest Expense	70,155	66,625
EARNINGS BEFORE INCOME TAXES	67,125	50,006
Income tax expense	23,350	13,862
NET INCOME FROM CONTINUING OPERATIONS	43,775	36,144
Discontinued operations, net of tax of $112 and $62, respectively	(208)	(168)
NET INCOME	43,567	35,976
Preferred dividends, net of gain on reacquired preferred stock	(265)	(207)
EARNINGS AVAILABLE FOR COMMON STOCK	$ 43,302	$ 35,769
Average basic common shares outstanding	71,442,585	70,735,702
BASIC AND DILUTED EARNINGS PER AVERAGE COMMON SHARE OUTSTANDING (See Note 2):		
Basic earnings available from continuing operations	$ 0.61	$ 0.51
Discontinued operations, net of tax	—	—
Basic earnings available	$ 0.61	$ 0.51
Diluted earnings available from continuing operations	$ 0.60	$ 0.50

Discontinued operations, net of tax	—	—
Diluted earnings available	$ 0.60	$ 0.50
DIVIDENDS DECLARED PER COMMON SHARE	$ 0.30	$ 0.30

The accompanying notes are an integral part of these consolidated financial statements.

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WESTAR ENERGY, INC.
CONSOLIDATED STATEMENTS OF INCOME (LOSS)
(Dollars in Thousands, Except Per Share Amounts)
(Unaudited)

	Nine Months Ended September 30,	
	2002	2001
SALES:		
Energy	$ 1,091,847	$ 1,029,937
Monitored Services	262,114	316,869
Total Sales	1,353,961	1,346,806
COST OF SALES:		
Energy	296,138	309,741
Monitored Services	84,139	107,283
Total Cost of Sales	380,277	417,024
GROSS PROFIT	973,684	929,782
OPERATING EXPENSES:		
Operating and maintenance	284,119	265,950
Depreciation and amortization	208,322	306,932
Selling, general and administrative	249,336	243,740
Loss on dispositions of monitored services operations	—	13,117
Loss on impairment of customer accounts	338,104	—
Total Operating Expenses	1,079,881	829,739
INCOME (LOSS) FROM OPERATIONS	(106,197)	100,043
OTHER INCOME (EXPENSE):		
Investment earnings	61,918	25,594
Gain on extinguishment of debt	16,496	30,805
Minority interests	97,097	8,948
Other	(40,589)	(9,270)
Total Other Income	134,922	56,077
INTEREST EXPENSE:		
Interest expense on long-term debt	170,768	167,034
Interest expense on short-term debt and other	30,352	30,915
Total Interest Expense	201,120	197,949
LOSSES BEFORE INCOME TAXES	(172,395)	(41,829)
Income tax benefit	105,646	33,778
NET LOSS FROM CONTINUING OPERATIONS BEFORE ACCOUNTING CHANGE	(66,749)	(8,051)
Discontinued operations, net of tax of $811 and $109, respectively	(3,219)	(404)
Cumulative effects of accounting changes, net of tax:		
Continuing operations, net of tax of $72,335 and $12,347, respectively	(621,434)	18,694
Discontinued operations	(2,283)	—
Total cumulative effects of accounting changes, net of tax	(623,717)	18,694
NET INCOME (LOSS)	(693,685)	10,239
Preferred dividends, net of gain on reacquired preferred stock	(152)	(772)
EARNINGS (LOSSES) AVAILABLE FOR COMMON STOCK	$ (693,837)	$ 9,467

Average common shares outstanding	71,485,991	70,502,743
BASIC AND DILUTED EARNINGS PER AVERAGE COMMON SHARE OUTSTANDING:		
Earnings (losses) available from continuing operations before accounting changes	$ (0.94)	$ (0.13)
Discontinued operations, net of tax	(0.04)	(0.01)
Accounting changes, net of tax	(8.73)	0.27
Earnings (losses) available	$ (9.71)	$ 0.13
DIVIDENDS DECLARED PER COMMON SHARE	$ 0.90	$ 0.90

The accompanying notes are an integral part of these consolidated financial statements.

WESTAR ENERGY, INC.

CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)
(Dollars in Thousands)
(Unaudited)

	Three Months Ended September 30,			
	2002		2001	
NET INCOME		$ 43,567		$ 35,976
OTHER COMPREHENSIVE INCOME (LOSS), NET OF TAX:				
Unrealized holding losses on cash flow hedges arising during the period	$ (5,766)		$ (28,607)	
Adjustment for losses (gains) included in net income	(166)	(5,932)	1,251	(27,356)
Foreign currency translation adjustment		383		(1,298)
Income tax benefit		726		10,881
Total other comprehensive loss, net of tax		(4,823)		(17,773)
COMPREHENSIVE INCOME		$ 38,744		$ 18,203

	Nine Months Ended September 30,			
	2002		2001	
NET INCOME (LOSS)		$ (693,685)		$ 10,239
OTHER COMPREHENSIVE INCOME (LOSS), NET OF TAX:				
Unrealized holding losses on marketable securities arising during the period	$ —		$ (592)	
Adjustment for losses included in net income	—	—	3,336	2,744
Unrealized holding gains (losses) on cash flow hedges arising during the period	14,593		(28,607)	
Adjustment for losses included in net income	1,992	16,585	1,251	(27,356)
Minimum pension liability adjustment		(4,688)		—
Foreign currency translation adjustment		1,094		2,749
Income tax benefit		(6,396)		10,188
Total other comprehensive loss, net of tax		6,595		(11,675)
COMPREHENSIVE INCOME (LOSS)		$ (687,090)		$ (1,436)

The accompanying notes are an integral part of these consolidated financial statements.

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WESTAR ENERGY, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS
(Dollars in Thousands)
(Unaudited)

	Nine Months Ended September 30,	
	2002	**2001**
CASH FLOWS FROM (USED IN) OPERATING ACTIVITIES:		
Net income (loss)	$ (693,685)	$ 10,239
Adjustments to reconcile net income (loss) to net cash provided by operating activities:		
Discontinued operations	3,219	404
Cumulative effect of accounting change	623,717	(18,694)
Depreciation and amortization	208,322	306,932
Amortization of deferred gain from sale-leaseback	(8,871)	(8,871)
Amortization of non-cash stock compensation	11,695	7,082
Net changes in energy trading assets and liabilities	19,754	41,496
Gain on extinguishment of debt	(16,496)	(30,805)
Net changes in fair value of call option	27,041	—
Equity in earnings from investments	(8,012)	(5,894)
Loss on dispositions of monitored services operations	—	13,117
Loss on impairment of customer accounts	338,104	—
Impairment on investments	—	11,075
Loss on sale of marketable securities	—	1,861
Loss on sale of property	1,424	—
Minority interests	(97,097)	(8,948)
Accretion of discount note interest	(387)	(2,130)
Net deferred taxes	(121,839)	(61,641)
Changes in working capital items, net of acquisitions and dispositions:		
Restricted cash	(12,406)	(306)
Accounts receivable, net	(26,588)	9,083
Inventories and supplies	859	(31,475)
Prepaid expenses and other	(9,791)	(3,101)
Accounts payable	(20,024)	(49,061)
Accrued and other current liabilities	13,126	8,301
Accrued income taxes	67,806	16,900
Deferred security revenues	(774)	636
Changes in other assets and liabilities	(14,522)	4,510
Cash flows from operating activities	284,575	210,710
CASH FLOWS FROM (USED IN) INVESTING ACTIVITIES:		
Additions to property, plant and equipment	(109,302)	(183,526)
Proceeds from sale of property	1,205	—
Customer account acquisitions	(15,419)	(7,239)
Proceeds from sale of marketable securities	—	2,829
Proceeds from dispositions of monitored services operations	16,758	47,974
Proceeds from other investments	15,589	3,446
Cash flows used in investing activities	(91,169)	(136,516)
CASH FLOWS FROM (USED IN) FINANCING ACTIVITIES:		
Short-term debt, net	(218,331)	80,030
Proceeds of long-term debt	1,374,580	20,253
Retirements of long-term debt	(1,092,082)	(78,292)
Funds in trust for debt repayment	(135,000)	—
Retirement of Western Resources obligated mandatorily redeemable preferred securities of subsidiary trusts holding solely company subordinated debentures	(2,480)	—
Issuance of officer loans	(275)	—
Issuance of common stock, net	14,453	13,775
Cash dividends paid	(65,011)	(64,039)
Preferred stock redemption	(1,547)	(170)
Acquisition of treasury stock	(14,809)	—
Reissuance of treasury stock	108	7,231
Cash flows used in financing activities	(140,394)	(21,212)
FOREIGN CURRENCY TRANSLATION	1,094	2,749

NET INCREASE IN CASH AND CASH EQUIVALENTS	54,106	55,731
CASH AND CASH EQUIVALENTS:		
Beginning of period	96,388	8,762
End of period	$ 150,494	$ 64,493

The accompanying notes are an integral part of these consolidated financial statements.

WESTAR ENERGY, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
SEPTEMBER 30, 2002
(Unaudited)

1. DESCRIPTION OF BUSINESS

Westar Energy, Inc., is a publicly traded consumer services company incorporated in 1924 in the State of Kansas. Unless the context otherwise indicates, all references on this Form 10-Q to “the company,” “Westar Energy,” “we,” “us,” “our” or similar words are to Westar Energy, Inc., and its consolidated subsidiaries. We provide electric generation, transmission and distribution services to approximately 647,000 customers in Kansas and monitored security services to approximately 1.2 million customers in North America and Europe. ONEOK, Inc. (ONEOK), in which we have an approximate 45% ownership interest, provides natural gas transmission and distribution services to approximately 1.4 million customers in Oklahoma and Kansas.

We and Kansas Gas and Electric Company (KGE), a wholly owned subsidiary, provide rate-regulated electric service. KGE owns 47% of Wolf Creek Nuclear Operating Corporation (WCNOC), the operating company for Wolf Creek Generating Station (Wolf Creek).

Westar Industries, Inc. (Westar Industries), our wholly owned subsidiary, owns our interests in Protection One, Inc. (Protection One), Protection One Europe, ONEOK and other non-utility businesses. Protection One, a publicly traded, approximately 88%-owned subsidiary, and Protection One Europe provide monitored security services. Protection One Europe refers collectively to Protection One International, Inc., a wholly owned subsidiary of Westar Industries, and its subsidiaries, including a French subsidiary in which it owns an approximate 99.8% interest.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Principles of Consolidation

We prepare our consolidated financial statements in accordance with accounting principles generally accepted in the United States of America (GAAP) for interim financial information and in accordance with the instructions to Form 10-Q. Accordingly, certain information and footnote disclosures normally included in financial statements presented in accordance with GAAP have been condensed or omitted. The accompanying consolidated financial statements and notes should be read in conjunction with the consolidated financial statements and the notes included in our Annual Report on Form 10-K for the year ended December 31, 2001 (2001 Form 10-K).

Use of Management’s Estimates

The preparation of consolidated financial statements requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the date of our consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. In management’s opinion, all adjustments, consisting only of normal recurring adjustments considered necessary for a fair presentation of the financial statements, have been included. The results of operations for the three and nine months ended September 30, 2002, are not necessarily indicative of the results to be expected for the full year.

Defeasance of Outstanding Debt

Under GAAP, we are required to continue reporting as outstanding debt on our consolidated balance sheet the $135 million principal amount of KGE first mortgage bonds due December 15, 2003, until the funds deposited with the trustee are used to retire such bonds at maturity. The cash deposited with the trustee is included in restricted cash on our consolidated balance sheet and can only be used for the purpose of repaying this indebtedness and related interest. The funds deposited to retire the $100 million principal amount of our 7.25% first mortgage bonds due August 15, 2002 were used to retire the bonds at that date. See Note 12 for discussion of debt financings completed during the second quarter of 2002.

Cumulative Effects of Accounting Changes

Effective January 1, 2002, we adopted Statement of Financial Accounting Standards (SFAS) No. 142, "Accounting for Goodwill and Other Intangible Assets." See Note 3 below for the cumulative effect of this adoption.

Effective January 1, 2001, we adopted SFAS No. 133, "Accounting for Derivative Instruments and Hedging Activities," as amended by SFAS Nos. 137 and 138 (collectively, SFAS No. 133). We use derivative instruments (primarily swaps, options and futures) to manage interest rate exposure and the commodity price risk inherent in fossil fuel purchases and electricity sales. Under SFAS No. 133, all derivative instruments, including our energy trading contracts, are recorded on our consolidated balance sheets as either an asset or liability measured at fair value. Changes in a derivative's fair value must be recognized currently in earnings unless specific hedge accounting criteria are met. Cash flows from derivative instruments are presented in net cash flows from operating activities.

Derivative instruments used to manage commodity price risk inherent in fuel purchases and electricity sales are classified as energy trading contracts on our consolidated balance sheets. Energy trading contracts representing unrealized gain positions are reported as assets; energy trading contracts representing unrealized loss positions are reported as liabilities.

Prior to January 1, 2001, gains and losses on our derivatives used for managing commodity price risk were deferred until settlement. These derivatives were not designated as hedges under SFAS No. 133. Accordingly, on January 1, 2001, we recognized an unrealized gain of $18.7 million, net of $12.3 million of tax. This gain is presented on our consolidated statement of income in our 2001 Form 10-K as a cumulative effect of a change in accounting principle. Accounting for derivatives under SFAS No. 133 will increase volatility of our future earnings.

Accounting Changes

On July 1, 2002, we began reporting mark-to-market gains and losses on energy trading contracts on a net basis, whether realized or unrealized, in our consolidated income statements. Prior to July 1, 2002, we reported gains on these contracts in sales and losses in cost of sales in our consolidated income statements. Subsequent to July 1, 2002, all gains and losses are reported in revenues. See Note 5 for additional information on the effects of the accounting change.

Additionally, in October 2002, the Financial Accounting Standards Board (FASB), through the Emerging Issues Task Force (EITF), rescinded Issue 98-10, "Accounting for Contracts Involved in Energy Trading and Risk Management Activities." As a result, all new contracts that would otherwise have been accounted for under Issue 98-10 and that do not fall within the scope of SFAS No. 133 will no longer be marked-to-market and recorded in earnings beginning on October 25, 2002. Effective January 1, 2003, a cumulative effect of a change in accounting principle will be recorded related to any remaining contracts that were accounted for under Issue 98-10 and that do not fall within the scope of SFAS No. 133. We are currently evaluating the potential effect of this change in accounting principle.

Effective July 1, 2002, we adopted SFAS No. 145, "Rescission of FASB Statements No. 4, 44, and 64, Amendment of FASB Statement No. 13, and Technical Corrections," which prohibits treating gains and losses associated with extinguishments resulting from a company's risk management strategy as extraordinary. See Note 14 for additional information on this pronouncement.

Change in Depreciation Rates

In its rate order of July 25, 2001, the Kansas Corporation Commission (KCC) extended the recovery period for certain of our generating assets for regulatory rate making purposes. On April 1, 2002, we adopted the new depreciation rates as prescribed in the KCC order for GAAP purposes, after exhausting the available appeals process to contest the extension of our recovery periods for our LaCygne 2 and Wolf Creek generating stations. This change is expected to reduce our annual depreciation expense in our GAAP financial statements by approximately $30 million. See Note 6 for additional information.

Earnings Per Share

Basic earnings per share applicable to common stock are based on the weighted average number of common shares outstanding during the period reported. Diluted earnings per share include the effect of potential issuances of common shares resulting from the assumed vesting of all outstanding restricted share units and exercise of all outstanding stock options issued pursuant to the terms of our stock-based compensation plans. The dilutive effect of stock-based compensation and stock options is computed using the treasury stock method. The number of potential dilutive securities for the three and nine months ended September 30, 2002 were 0.4 million and 0.6 million, respectively. The potentially dilutive securities for the nine months ended September 30, 2002 for restricted share awards of 0.6 million shares and stock for compensation of 5,000 shares were not included in the computation of diluted earnings per share since to do so would have been antidilutive.

Diluted earnings per share amounts shown in the accompanying financial statements reflect the inclusion of employee stock options, restricted share awards and other stock compensation. The following represents a reconciliation of weighted average shares outstanding.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2002	2001	2002	2001
	(In Thousands)			
DENOMINATOR FOR BASIC AND DILUTED EARNINGS PER SHARE:				
Denominator for basic earnings per share - weighted average shares (a)	71,443	70,736	71,486	70,503
Effect of dilutive securities:				
Employee stock options	—	3	—	4
Restricted share awards	444	379	—	274
Stock for compensation	—	264	—	264
Denominator for diluted earnings per share - weighted average shares	71,887	71,382	71,486	71,045

(a) The amounts in the table above do not include shares owned by Westar Industries or Protection One.

Supplemental Cash Flow Information

Cash paid for interest and income taxes for each of the nine months ended September 30, is as follows:

	Nine Months Ended September 30,	
	2002	2001
	(In Thousands)	
CASH PAID FOR:		
Interest on financing activities, net of amount capitalized	$ 258,201	$ 262,979
Income taxes	510	5,810
NON-CASH FINANCING TRANSACTIONS:		
Issuance of stock to subsidiary (Note 16)	83,868	359,605

Reclassifications

Certain amounts in prior years have been reclassified to conform with classifications used in the current year presentation.

3. IMPAIRMENT CHARGE PURSUANT TO NEW ACCOUNTING RULES

Effective January 1, 2002, we adopted the new accounting standards SFAS No. 142, “Accounting for Goodwill and Other Intangible Assets,” and SFAS No. 144, “Accounting for the Impairment and Disposal of Long-Lived Assets.” SFAS No. 142 establishes new standards for accounting for goodwill. SFAS No. 142 continues to require the recognition of goodwill as an asset, but discontinues amortization of goodwill. In addition, annual impairment tests must be performed using a fair-value based approach as opposed to an undiscounted cash flow approach required under prior standards.

SFAS No. 144 establishes a new approach to determining whether our customer account asset is impaired. The approach no longer permits us to evaluate our customer account asset for impairment based on the net undiscounted cash flow stream obtained over the remaining life of the goodwill associated with the customer accounts being evaluated. Rather, the cash flow stream to be used under SFAS No. 144 is limited to future estimated undiscounted cash flows from customer accounts. If the undiscounted cash flow stream from customer accounts is less than the combined book value of customer accounts and goodwill, an impairment charge would be required.

The new rule substantially reduces the net undiscounted cash flows used for impairment evaluation purposes as compared to the previous accounting rules. The undiscounted cash flow stream has been reduced from the 16-year remaining life of the goodwill to the remaining life of customer accounts for impairment evaluation purposes.

To implement the new standards, an independent appraisal firm was engaged to help management estimate the fair values of goodwill and customer accounts. Based on this analysis completed during the first quarter of 2002, we recorded a non-cash charge of approximately $749.5 million, net of tax, of which $555.6 million is related to goodwill and $193.9 million is related to customer accounts. The charge is detailed as follows:

	Impairment of Goodwill	Impairment of Customer Accounts	Total
		(In Thousands)	
Protection One	$ 615,948	$ 339,974	$ 955,922
Protection One Europe	80,104	—	80,104
Total pre-tax impairment	$ 696,052	$ 339,974	1,036,026
Income tax benefit			(190,676)
Minority interest ownership			(95,886)
Total charge, net of tax			$ 749,464

The impairment charge for goodwill is reflected in our consolidated statement of income as a cumulative effect of a change in accounting principle. The impairment charge for customer accounts is reflected in our consolidated statement of income as an operating expense. These impairment charges reduce the recorded value of these assets to their estimated fair values at January 1, 2002.

We no longer amortize goodwill to expense because of the adoption of SFAS No. 142. The following tables show our results for the three and nine months ended September 30, 2002 compared to our results for the three and nine months ended September 30, 2001, calculated using the new accounting standard for goodwill, adjusted for minority interest.

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	Three Months Ended September 30,	
	2002	2001
	(In Thousands, Except Per Share Amounts)	
Reported earnings available for common stock	$ 43,302	$ 35,769
Add back: Goodwill amortization	—	11,040
Adjusted earnings available for common stock	$ 43,302	$ 46,809
Basic earnings per share:		
Reported earnings available for common stock	$ 0.61	$ 0.51
Add back: Goodwill amortization	—	0.15
Adjusted earnings available for common stock	$ 0.61	$ 0.66
Diluted earnings per share:		
Reported earnings available for common stock	$ 0.60	$ 0.50
Add back: Goodwill amortization	—	0.16
Adjusted earnings available for common stock	$ 0.60	$ 0.66

	Nine Months Ended September 30,	
	2002	2001
	(In Thousands, Except Per Share Amounts)	
Reported earnings (losses) available for common stock	$ (693,837)	$ 9,467
Add back: Goodwill amortization	—	34,197
Adjusted earnings (losses) available for common stock	$ (693,837)	$ 43,664
Basic and diluted earnings per share:		
Reported earnings (losses) available for common stock	$ (9.71)	$ 0.13
Add back: Goodwill amortization	—	0.49
Adjusted earnings (losses) available for common stock	$ (9.71)	$ 0.62

The investment at cost in customer accounts at September 30, 2002 and December 31, 2001 was approximately $1.1 billion and $1.4 billion, respectively. Accumulated amortization of the investment in customer accounts at September 30, 2002 and December 31, 2001 was $668.6 million and $621.3 million, respectively. We recorded approximately $21.9 million of customer account amortization expense during the three months ended September 30, 2002 and $37.3 million during the same period of 2001. We recorded approximately $65.4 million of customer account amortization expense during the nine months ended September 30, 2002 and $113.3 million during the same period of 2001. Customer account amortization expense is reduced primarily as a result of the impairment charge that reduced our customer account balance. The table below reflects the estimated aggregate customer account amortization expense for 2002 and each of the four succeeding fiscal years.

	2002	2003	2004	2005	2006
			(In Thousands)		
Estimated amortization expense	$ 87,202	$ 86,917	$ 86,812	$ 70,560	$ 70,199

Goodwill is required to be tested each year for impairment. July 1 has been established as the annual impairment testing date for Protection One. Protection One's testing was completed during the third quarter of 2002 and it was determined that no additional impairment was required as of July 1, 2002. Protection One Europe established October 1 as its annual impairment testing date. We are required to perform impairment tests for long-lived assets prospectively for our monitored services segment as long as it incurs recurring losses in excess of expectations or for other matters that may negatively impact its businesses. Declines in market values of our monitored services businesses or the value of customer accounts that may be incurred prospectively may also require additional impairment charges in the future. Any such impairment charges could be material.

4. CHANGE IN ESTIMATE OF CUSTOMER LIFE

During the first quarter of 2002, Protection One evaluated the estimated life and amortization rates for customer accounts, based on the results of a lifing study performed by a third party appraisal firm in the first quarter of 2002. The lifing study showed deterioration in the average remaining life of customer accounts. The report showed Protection One's North America customer pool can expect a declining revenue stream over the next 30 years with an estimated average remaining life of 9 years. Protection One's Network Multifamily pool can expect a declining revenue stream over the next 30 years with an estimated average remaining life of 10 years. Protection One's management determined it was appropriate, given the results of the lifing study, to adjust the rate of amortization on customer accounts for its North America and Multifamily customer pools. In the first quarter of 2002, Protection One changed its amortization rate for its North America pool to a 10-year 135% declining balance method from a 10-year 130% declining balance method. For the Multifamily pool, Protection One reduced its estimated customer life from 10 to 9 years and will continue to amortize on a straight-line basis. Protection One's management believes these changes provide for a better match of amortization expense in the first five years of the expected decline in revenues. We account for these amortization changes prospectively as a change in estimate. These changes in estimates increased amortization expense for the three months ended September 30, 2002 by approximately $0.2 million, net of tax of $0.1 million, and for the nine months ended September 30, 2002 by approximately $0.6 million, net of tax of $0.4 million.

5. FINANCIAL INSTRUMENTS, ENERGY TRADING AND RISK MANAGEMENT

Our operations are exposed to market risks from changes in commodity prices, foreign currency exchange rates, interest rates and equity prices that could affect our results of operations and financial condition. We manage our exposure to these market risks through our regular operating and financing activities and, when deemed appropriate, hedge these risks through the use of derivative financial instruments. We use the term hedge to mean a strategy designed to manage risks of volatility in prices or rate movements on certain assets, liabilities or anticipated transactions by creating a relationship in which gains or losses on derivative instruments are expected to counterbalance the losses or gains on the assets, liabilities or anticipated transactions exposed to such market risks. We use derivative instruments as risk management tools consistent with our business plans and prudent business practices and for energy trading purposes.

Energy Trading Contracts

We engage in both trading and non-trading activities in our commodity price risk management activities. We trade electricity, coal, natural gas and oil. We utilize a variety of financial instruments, including forward contracts involving cash settlements or physical delivery of an energy commodity, options, swaps requiring payments (or receipt of payments) from counterparties based on the differential between specified prices for the related commodity and futures traded on electricity, natural gas and oil.

We are involved in trading activities primarily to minimize risk from market fluctuations, capitalize on our market knowledge and enhance system reliability. Net open positions exist or are established due to the origination of new transactions and our assessment of, and response to, changing market conditions. To the extent we have open positions, we are exposed to the risk that fluctuating market prices could adversely impact our financial position or results from operations.

We have considered a number of risks and costs associated with the future contractual commitments included in our energy portfolio. These risks include credit risks associated with the financial condition of counterparties, product location (basis) differentials and other risks. The counterparties in our portfolio are primarily large energy marketers and major utility companies. The creditworthiness of our counterparties could positively or negatively impact our overall exposure to credit risk. We maintain credit policies with regard to our counterparties that, in management's view, minimize overall credit risk.

We are also exposed to commodity price changes outside of trading activities. We use derivatives for non-trading purposes and a mix of various fuel types primarily to reduce exposure relative to the volatility of market and commodity prices. Due to the volatility of power market and gas prices, past prices cannot be used to predict future prices.

Additional factors that affect our commodity price exposure are the quantity and availability of fuel used for generation and the quantity of electricity customers will consume. Quantities of fossil fuel used for generation could vary dramatically year to year based on the particular fuel's availability, price, deliverability, unit outages and nuclear refueling. Our customers' electricity usage could also vary dramatically year to year based on the weather or other factors.

Hedging Activity

During the third quarter of 2001, we entered into hedging relationships to manage commodity price risk associated with future natural gas purchases in order to protect us and our customers from adverse price fluctuations in the natural gas market. Initially, we entered into futures and swap contracts with terms extending through July 2004 to hedge price risk for a portion of our anticipated natural gas fuel requirements for our generation facilities. We have designated these hedging relationships as cash flow hedges in accordance with SFAS No. 133. Through the third quarter of 2002, we have burned 20,000,000 MMBtu. In September 2002, we determined that we had overhedged approximately 12,000,000 MMBtu for the remaining period of the hedge and we recognized a gain in earnings of $4.0 million as a result of the discontinuance of this portion of the cash flow hedge. We are currently forecasting that we need a notional volume of 7,000,000 MMBtu for the remainder of the hedged period of October 2002 through July 2004.

Effective October 4, 2001, we entered into a $500 million interest rate swap agreement with a term of two years. At that time, the effect of the swap agreement was to fix the annual interest rate on the term loan at 6.18%. In June 2002, we refinanced the term loan associated with this swap, which increased the effective rate of the swap to 6.43%. At September 30, 2002, the variable rate in effect for the term loan was 4.82%. Changes in the fair value of this cash flow hedge are due to fluctuations in the variable interest rate.

The following tables summarize the effects our natural gas hedges and our interest rate swap had on our financial position and results of operations for the three and nine months ended September 30, 2002:

	Natural Gas Hedges (a)	Interest Rate Swap	Total Cash Flow Hedges
		(Dollars in Thousands)	
Three Months Ended September 30, 2002:			
Fair value of derivative instruments:			
Current	$ 1,056	$ —	$ 1,056
Long-term	806	(10,009)	(9,203)
Total	$ 1,862	$ (10,009)	$ (8,147)
Change in amounts in accumulated other comprehensive income	$ (2,306)	$ (3,460)	$ (5,766)
Adjustment for losses included in net income	(166)	—	(166)
Change in estimated income tax expense (benefit)	(652)	1,376	724
Net Comprehensive Gain	$ (3,124)	$ (2,084)	$ (5,208)
Anticipated reclassifications to earnings in the next 12 months (b)	$ 1,056	$ —	$ 1,056
Duration of hedge designation as of September 30, 2002	22 months	13 months	—

	Natural Gas Hedges (a)	Interest Rate Swap	Total Cash Flow Hedges
		(Dollars in Thousands)	
Nine Months Ended September 30, 2002:			
Fair value of derivative instruments:			
Current	$ 1,056	$ —	$ 1,056
Long-term	806	(10,009)	(9,203)
Total	$ 1,862	$ (10,009)	$ (8,147)
Change in amounts in accumulated other comprehensive income	$ 21,945	$ (7,352)	$ 14,593
Adjustment for losses included in net income	1,992	—	1,992
Change in estimated income tax expense (benefit)	(11,156)	2,924	(8,232)
Net Comprehensive Gain	$ 12,781	$ (4,428)	$ 8,353

Anticipated reclassifications to earnings in the next 12 months (b)	$ 1,056	$ —	$ 1,056
Duration of hedge designation as of September 30, 2002	22 months	13 months	—

(a) Natural gas hedge assets and liabilities are classified in the balance sheet as energy trading contracts. Due to the volatility of gas commodity prices, it is probable that gas prices will increase and decrease over the remaining 22 months that these relationships are in place.
(b) The actual amounts that will be reclassified to earnings could vary materially from this estimated amount due to changes in market conditions.

Fair Value of Energy Trading Contracts

The tables below show fair value of energy trading contracts outstanding for the nine months ended September 30, 2002, their sources and maturity periods:

	Fair Value of Contracts (In Thousands)
Net fair value of contracts outstanding at the beginning of the period	$ 2,309
Less contracts realized or otherwise settled during the period	14,670
Fair value of new contracts entered into during the period	18,852
Fair value of contracts outstanding at the end of the period	$ 6,491

These contracts were valued through market exchanges and, where necessary, broker quotes and industry publications. The sources of the fair values of the financial instruments related to these contracts are summarized in the following table:

	Fair Value of Contracts at End of Period				
Source of Fair Value	**Total Fair Value**	**Maturity Less Than 1 Year**	**Maturity 1-3 Years**	**Maturity 4-5 Years**	**Maturity in Excess of 5 Years**
			(In Thousands)		
Prices actively quoted (futures)	$ (114)	$ (3,525)	$ 3,411	$ —	$ —
Prices provided by other external sources (swaps and forwards)	11,663	6,126	5,537	—	—
Prices based on the Black Option Pricing model (options and other) (a)	(5,058)	(4,582)	(476)	—	—
Total fair value of contracts outstanding	$ 6,491	$ (1,981)	$ 8,472	$ —	$ —

(a) The Black Option Pricing model is a variant of the Black-Scholes Option Pricing model.

Effects of Accounting Changes

On July 1, 2002, we began reporting mark-to-market gains and losses on energy trading contracts on a net basis, whether realized or unrealized, in our consolidated income statements. Prior to July 1, 2002, we reported gains on these contracts in sales and losses in cost of sales in our consolidated income statements. Subsequent to July 1, 2002, all gains and losses are reported in revenues. The changes are reflected in our consolidated financial statements for the third quarter of 2002. Prior periods shown in our consolidated financial statements have been reclassified to reflect the effect of this change and to be comparable as required by GAAP. As a result of the net presentation, we expect significant reductions in our energy revenues and expenses from those reported in prior periods, which will not affect gross profit or net income. A summary of the effects of this change for the three and nine months ended September 30, 2002 and 2001 is as follows:

Changes to Income Statement

	Three Months Ended September 30, 2002		Nine Months Ended September 30, 2002	
	Prior to Reclassifications for Net Presentation	After Reclassifications for Net Presentation	Prior to Reclassifications for Net Presentation	After Reclassifications for Net Presentation
	(In Thousands)			
Energy sales	$ 559,648	$ 442,145	$ 1,389,825	$ 1,091,847
Energy cost of sales	232,131	114,628	594,116	296,138
Energy gross profit	$ 327,517	$ 327,517	$ 795,709	$ 795,709

	Three Months Ended September 30, 2001		Nine Months Ended September 30, 2001	
	Prior to Reclassifications for Net Presentation	After Reclassifications for Net Presentation	Prior to Reclassifications for Net Presentation	After Reclassifications for Net Presentation
	(In Thousands)			
Energy sales	$ 568,432	$ 417,639	$ 1,364,834	$ 1,029,937
Energy cost of sales	279,794	129,001	644,638	309,741
Energy gross profit	$ 288,638	$ 288,638	$ 720,196	$ 720,196

Additionally, in October 2002, the FASB, through the EITF, rescinded Issue 98-10. As a result, all new contracts that would otherwise have been accounted for under Issue 98-10 and that do not fall within the scope of SFAS No. 133 will no longer be marked-to-market and recorded in earnings beginning on October 25, 2002. Effective January 1, 2003, a cumulative effect of a change in accounting principle will be recorded related to any remaining contracts that were accounted for under Issue 98-10 and that do not fall within the scope of SFAS No. 133. We are currently evaluating the potential effect of this change in accounting principle.

6. RATE MATTERS AND REGULATION

KCC Rate Proceedings

On November 27, 2000, we and KGE filed applications with the KCC for an increase in retail rates. On July 25, 2001, the KCC ordered an annual reduction in our combined electric rates of $22.7 million, consisting of a $41.2 million reduction in KGE’s rates and an $18.5 million increase in our rates.

On August 9, 2001, we and KGE filed petitions with the KCC requesting reconsideration of the July 25, 2001 order. The petitions specifically asked for reconsideration of changes in depreciation, reductions in rate base related to deferred income taxes associated with the KGE acquisition premium and a deferred gain on the sale and leaseback of our LaCygne 2 generating unit, wholesale revenue imputation and several other issues. On September 5, 2001, the KCC issued an order in response to our motions for reconsideration that increased our rates by an additional $7.0 million. The $41.2 million rate reduction in KGE’s rates remained unchanged. This resulted in the total company rate decrease of $15.7 million. On November 9, 2001, we filed an appeal of the KCC decisions with the Kansas Court of Appeals in an action captioned “Western Resources, Inc. and Kansas Gas and Electric Company vs. The State Corporation Commission of the State of Kansas.” On March 8, 2002, the Court of Appeals upheld the KCC orders. On April 8, 2002, we filed a petition for review of the decision of the Court of Appeals with the Kansas Supreme Court. Our petition for review was denied on June 12, 2002.

KCC Investigations and Orders

See Note 7 for a discussion of the order issued by the KCC on July 20, 2001 in the KCC's docket investigating the proposed separation of our electric utility businesses from our non-utility businesses and other aspects of our unregulated businesses.

Effective July 1, 2002, we entered into an outsourcing agreement with a newly formed subsidiary of Protection One, named Protection One Data Services, Inc. (PODS), pursuant to which we outsourced to PODS a significant portion of the services and functions previously performed by our internal information technology department. On August 16, 2002, the KCC initiated an investigation as to whether participation by us and PODS in this transaction and relationship is consistent with Kansas law, including our and KGE's statutory obligation to provide efficient and reliable service to Kansas customers at just and reasonable rates. A technical hearing concerning this matter is scheduled for December 12, 2002. Subject to the outcome of the investigation, the KCC conditionally approved an accounting order to preserve the cost savings attributable under the agreement.

On November 8, 2002, the KCC issued an order which requires us to initiate a corporate and financial restructuring, among other things. See Note 7 for additional information.

FERC Proceedings

Our wholly owned subsidiary, Westar Generating, Inc. (Westar Generating), owns our interest in the State Line generating facility. We purchase Westar Generating's share of the power generated by State Line. The Federal Energy Regulatory Commission (FERC) establishes the rate at which we buy power from Westar Generating. On February 23, 2001, Westar Generating filed an application with the FERC to establish the rate for the sale of power to us. We reached a settlement with the FERC staff and the KCC, the only active parties in this proceeding. We filed the settlement on May 24, 2002 with the FERC. The Administrative Law Judge certified the settlement to FERC on June 21, 2002. The FERC issued an order conditionally approving uncontested settlement on September 5, 2002. We made a compliance filing on October 7, 2002.

On September 6, 2002, we filed an application with the FERC seeking authorization to issue unsecured long-term debt securities, on or before October 31, 2004, in an amount not to exceed $650 million at any one time. The proposed debt securities will be issued to retire currently outstanding securities and indebtedness related to our electric operations, including accrued and unpaid interest due at maturity. On October 3, 2002, the KCC and MBIA Insurance Corporation (MBIA) filed motions with the FERC to intervene. Neither of the intervenors opposed the issuance of the requested borrowing authority. The KCC stated that it did not oppose the application based on our continued action consistent with our declaration that the funds would be used to retire existing debt and not to add new debt or to increase the aggregate amount of our outstanding debt. We cannot predict what action the FERC will take regarding this matter.

7. PNM TRANSACTION AND SPLIT-OFF OF WESTAR INDUSTRIES

PNM Transaction

On May 28, 2002, we gave notice to Public Service Company of New Mexico (PNM) of termination of the merger agreement with PNM. On September 25, 2002, PNM and we announced that litigation between us has been settled without the payment of any damages or fees. Each side agreed to release all of its claims and potential claims in connection with the transaction.

KCC Proceedings and Orders

The merger with PNM contemplated the completion of a rights offering for shares of Westar Industries prior to closing. On May 8, 2001, the KCC opened an investigation of the proposed separation of our electric utility businesses from our non-utility businesses, including the rights offering, and other aspects of our unregulated businesses. The order opening the investigation indicated that the investigation would focus on whether the separation and other transactions involving our unregulated businesses are consistent with our obligation to provide efficient and sufficient electric service at just and reasonable rates to our electric utility customers. The KCC staff was directed to investigate, among other matters, the basis for and the effect of the Asset Allocation and Separation Agreement we entered into with Westar Industries in connection with the proposed separation and the intercompany payable owed by us to Westar Industries, the separation of Westar Industries, the effect of the business difficulties faced by our unregulated businesses and whether they should continue to be affiliated with our electric utility business, and our present and prospective capital structures. On May 22, 2001, the KCC issued an order nullifying the Asset Allocation and Separation Agreement, prohibiting Westar Industries and us from taking any action to complete the rights offering for common stock of Westar Industries, which was to be a first step in the separation, and scheduled a hearing to consider whether to make the order permanent.

On July 20, 2001, the KCC issued an order that, among other things: (1) confirmed its May 22, 2001 order prohibiting us and Westar Industries from taking any action to complete the proposed rights offering and nullifying the Asset Allocation and Separation Agreement; (2) directed us and Westar Industries not to take any action or enter into any agreement not related to normal utility operations that would directly or indirectly increase the share of debt in our capital structure applicable to our electric utility operations, which has the effect of prohibiting us from borrowing to make a loan or capital contribution to Westar Industries; and (3) directed us to present a financial plan consistent with parameters established by the KCC's order to restore financial health, achieve a balanced capital structure and protect ratepayers from the risks of our non-utility businesses. In its order, the KCC also acknowledged that we are currently operating efficiently and at reasonable cost and stated that it was not disapproving the PNM transaction or a split-off of Westar Industries. We appealed the orders issued by the KCC to the District Court of Shawnee County, Kansas. On February 5, 2002, the District Court issued a decision finding that the KCC orders were not final orders and that the District Court lacked jurisdiction to consider the appeal. Accordingly, the matter was remanded to the KCC for review of the financial plan we filed as ordered by the KCC as discussed below.

On February 11, 2002, the KCC issued an order primarily related to procedural matters for the review of the financial plan. In addition, the order required that we and the KCC staff make filings addressing whether the filing of applications by us and KGE at FERC, seeking renewal of existing borrowing authority, violated the July 20, 2001 KCC order directing that we not increase the share of debt in our capital structure applicable to our electric utility operations. The KCC staff subsequently filed comments asserting that the refinancing of existing indebtedness with new indebtedness secured by utility assets would in certain circumstances violate the July 20, 2001 KCC order. The KCC filed a motion to intervene in the proceeding at FERC asserting the same position.

On March 26, 2002, the KCC issued an order in which it acknowledged that our FERC filings technically did not violate the July 20, 2001 KCC order. However, the KCC expressed concern that our refinancing plans as described in the FERC filings could, when implemented, increase the share of debt in the capital structure applicable to our electric utility operations. By agreement with the KCC staff and other intervenors, the FERC applications were amended so that the requested authority was limited to short-term (12 months or less) borrowing authority and, as a result, the KCC's and certain other parties' interventions were withdrawn. On June 14, 2002, the FERC issued orders approving our applications for short-term borrowing authority.

The Financial Plan

The July 20, 2001 KCC order directed us to present a financial plan to the KCC. We presented a financial plan to the KCC on November 6, 2001, which we amended on January 29, 2002. Our financial plan is set forth in full in our 2001 Form 10-K in Note 15 of the Notes to Consolidated Financial Statements, "PNM Merger and Split-Off of Westar Industries — The Financial Plan." The principal objective of the financial plan was to reduce our total debt as calculated by the KCC to approximately $1.8 billion, a reduction of approximately $1.2 billion. The financial plan contemplated that we would proceed with a rights and warrants offering of Westar Industries common stock to our shareholders and that, in the event that the PNM merger and related split-off did not close, we would use our best efforts to sell our shares of Westar Industries common stock, or shares of our common stock, upon the occurrence of certain events.

On May 30, 2002, Westar Industries gave notice pursuant to a shareholder agreement with ONEOK of its intention to sell all of the common stock and preferred stock of ONEOK owned by Westar Industries. ONEOK had until August 28, 2002 to purchase the stock, but advised Westar Industries that it would not purchase the stock. Accordingly, Westar Industries is now free to pursue a sale of the stock and is free of certain restrictions (including percentage limitations on sales) contained in the shareholder agreement. On August 29, 2002, Westar Industries announced that it intends to sell its ownership in the common stock and preferred stock of ONEOK, which represents an approximate 45% ownership interest in ONEOK. Westar Industries plans to sell outright, or sell an option to purchase, all or a portion of the ONEOK stock it owns in privately negotiated transactions, or sales into the public market. Under the shareholder agreement, ONEOK must take all commercially reasonable steps to assist Westar Industries in securing such regulatory approvals as may be necessary to allow a sale of the stock provided such approvals would not reasonably be expected to have a material adverse effect on ONEOK. Westar Industries has until September 30, 2003 to complete a sale of the stock. We cannot predict the outcome of this proposed sale of ONEOK stock nor can we predict the net proceeds we would receive. If the ONEOK stock is not sold, the original provisions of the shareholder agreement will return in full force and effect.

A hearing at the KCC that reviewed the financial plan began on July 2, 2002 and concluded July 11, 2002. In conjunction with the hearing, on July 9, 2002, the KCC approved the sale of Westar Industries' interest in ONEOK subject to, among other things, the condition that the net proceeds be used to decrease utility debt.

November 8, 2002 KCC Order

On November 8, 2002, the KCC issued an order addressing our proposed financial plan. The order contained the following findings and directions.

- The order rejects our proposed financial plan.
- The order directs us to reverse certain transactions, including reversing accounting entries so certain capital contributions by us to Westar Industries are reflected as an intercompany payable owed by Westar Industries to us, and reversing all transactions in 2002 recorded as equity investments by us in Westar Industries so such transactions are reflected as intercompany payables owed by Westar Industries to us. We are required to submit a report within 30 days of the date of the order certified by our chief financial officer as to compliance with these requirements.
- The order directs us to submit a plan within 90 days for restructuring our organizational structure so that our electric utility business operating as a division of us is placed in a separate subsidiary. The plan is required to include the process for restructuring, an analysis of whether the restructuring is consistent with our present debt indentures and loan agreements, and if not, the necessary amendments to proceed with the restructuring. The restructuring plan is required to be accompanied by an updated cost allocation manual to track costs and investments attributable to our regulated electric utility and non-regulated activities. Following approval of the restructuring plan and the updated cost allocation manual, we will be required to provide the KCC with separate quarterly financial statements for us and our electric utility subsidiaries.
- The order directs us to provide a written explanation if the amount of debt secured by utility assets which we transfer to the new utility subsidiary exceeds $1.5 billion. For the two years beginning on the date we submit our restructuring plan, we are required to reduce secured utility debt by at least $100 million each year from cash flow.
- The order directs us to reduce our consolidated debt, to consider certain actions for reducing our consolidated debt, and to provide expert testimony supporting any decision to reject a suggested action. The suggested actions include payments of $100 million each year from cash flow, the issuance of common stock, the sale of ONEOK, Inc. stock, a reduction in, or elimination of, our dividend, and the sale of Protection One.
- The order initiates an investigation into the appropriate type, quantity, structure and regulation of the nonutility businesses with which our utility businesses may be affiliated.
- The order establishes standstill protections requiring that we seek KCC approval before we take certain actions including making any loan to, investment in or transfer of cash in excess of $100,000 to a nonutility affiliate, entering into any agreement with a nonutility affiliate where the value of goods or services exchanged exceeds $100,000, investing, by us or an affiliate, of more than $100,000 in an existing or new nonutility business, transferring any non-cash assets or intellectual property to any non-utility affiliate, issuing any debt, or selling any ONEOK, Inc. stock without complying with the requirements of a July 9, 2002 KCC order. In addition, we must charge interest to nonutility affiliate at the incremental cost of their debt on outstanding balances of any existing or future interaffiliate loans, receivables or other cash advances due us. These restrictions apply both to us and our KGE subsidiary.

We are in the process of reviewing and assessing the order and its potential impact on our operations, financial condition and results of operations and we expect to file a motion for reconsideration or clarification of some provisions of the order. Since the order was issued recently and we are still assessing it, there may be additional issues arising from the order not discussed here.

8. INCOME TAXES

We have recorded income tax benefits and expenses for the interim periods using the federal statutory rate of 35%. The effective income tax rates set forth below are computed by dividing total income taxes by earnings before income taxes.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2002	2001	2002	2001
Effective income tax expense (benefit)	35%	28%	(61)%	(81)%

Our income tax benefit for the nine months ended September 30, 2002 increased due to the impairment charge recorded in the first quarter of 2002 and the benefit associated with the sale of Protection One's Canadian operations. See Note 3 above for additional information regarding the impairment charge. Additional information on the sale of Protection One's Canadian operations is included in Note 9.

Other differences between our effective tax rate and the statutory rate include the benefit of excluding from taxable income, in accordance with IRS rules, the income from corporate-owned life insurance and 70% of the dividends received from ONEOK. In addition, certain expenses for depreciation, compensation, amortization and state income taxes also affect our effective income tax rate.

9. DISCONTINUED OPERATIONS — SALE OF CANADIAN OPERATIONS

During the second quarter of 2002, Protection One entered into negotiations for the sale of its Canadian business, which is included in our monitored services segment. The sale was consummated on July 9, 2002. Protection One recorded an impairment loss of approximately $1.3 million, net of tax of $0.7 million, in the second quarter of 2002 as a result of the sale.

The net operating losses of these operations are included in the consolidated statements of income under discontinued operations. The net operating loss for the nine months ended September 30, 2002, of $1.6 million, includes an impairment loss on customer accounts of approximately $1.9 million. An impairment charge of $2.3 million relating to the Canadian operations' goodwill is reflected in the consolidated statement of income for the nine months ended September 30, 2002, as a cumulative effect of accounting change from discontinued operations. No revenue from these operations was recorded in the three months ended September 30, 2002. Revenues from these operations were $4.2 million for the nine months ended September 30, 2002, compared to $2.1 million and $6.3 million for the three and nine months ended September 30, 2001.

As of the date of the sale, all assets and liabilities of the Canadian operations were disposed of. The major classes of assets and liabilities of the Canadian operations at December 31, 2001 were as follows:

		December 31, 2001
		(In Thousands)
Assets:		
Current assets	$	478
Property, plant and equipment, net		571
Customer accounts, net		16,992
Goodwill		4,842
Other		55
Total assets	$	22,938
Liabilities:		
Current liabilities	$	1,364

10. STOCK BASED COMPENSATION PLANS

During the second quarter of 2002, active employees awarded restricted share units (RSUs) in prior years were allowed to exchange eligible RSUs for shares of common stock. As a result, approximately 145,000 RSUs were exchanged for approximately 105,000 shares of our common stock. In addition, approximately 317,000 RSUs held by certain executive officers were exchanged for approximately 12,500 shares of preferred stock of Guardian International, Inc. Compensation expenses associated with this exchange totaled approximately $9.0 million for the nine months ended September 30, 2002.

11. ICE STORM

In late January 2002, a severe ice storm swept through our utility service area causing extensive damage and loss of power to numerous customers. Through September 30, 2002, we incurred total costs of $18.9 million for restoration costs, a portion of which was capitalized. We have deferred and recorded as a regulatory asset on our September 30, 2002 consolidated balance sheet restoration costs of approximately $14.6 million. We have received an accounting authority order from the KCC that allows us to accumulate and defer for potential future recovery all operating and carrying costs related to storm restoration.

12. DEBT FINANCINGS

On May 10, 2002, we completed offerings for $365 million of our first mortgage bonds and $400 million of our unsecured senior notes, both of which will be due on May 1, 2007. The first mortgage bonds bear interest at an annual rate of 7 7/8% and the unsecured senior notes bear interest at an annual rate of 9 3/4%. Interest on the first mortgage bonds and unsecured senior notes is payable semi-annually on May 1 and November 1 of each year, beginning on November 1, 2002. The net proceeds from these offerings were used to repay outstanding indebtedness of $547 million under our existing secured bank term loan, provide for the repayment of $100 million of our 7.25% first mortgage bonds due August 15, 2002 together with accrued interest, reduce the outstanding balance on our existing secured revolving credit facility and pay fees and expenses of the transactions. In conjunction with the May 10, 2002 financing, we amended our secured revolving credit facility to reduce the total commitment under the facility to $400 million from $500 million and to release another $100 million of our first mortgage bonds from collateral.

On June 6, 2002, we entered into a secured credit agreement providing for a $585 million term loan and a $150 million revolving credit facility, each maturing on June 6, 2005, provided that if we have not refinanced or provided for the payment of our 6.25% senior unsecured notes that are putable and callable on August 15, 2003, or our 6.875% senior unsecured notes due August 1, 2004, at least 60 days prior to either such date, the maturity date is the date 60 days prior to either such date. As of November 6, 2002, $146.4 million principal amount of our 6.25%

senior unsecured notes and $278.3 million principal amount of our 6.875% senior unsecured notes were outstanding. All loans under the credit agreement are secured by KGE's first mortgage bonds. The proceeds of the term loan were used to retire an existing $400 million revolving credit facility with an outstanding principal balance of $380 million, to provide for the repayment at maturity of $135 million principal amount of KGE first mortgage bonds due December 15, 2003 together with accrued interest, to repurchase approximately $45 million of our outstanding unsecured notes and to pay customary fees and expenses of the transactions. There were no borrowings under the revolving credit facility at closing or as of November 6, 2002.

Under GAAP, we are required to continue reporting as outstanding debt on our consolidated balance sheet the $135 million principal amount of KGE first mortgage bonds due December 15, 2003 until the funds deposited with the trustee are used to retire such bonds at maturity. The cash deposited with the trustee is included in restricted cash on our consolidated balance sheet and can only be used for the purpose of repaying this indebtedness and related interest. The funds deposited to retire the $100 million principal amount of our 7.25% first mortgage bonds due August 15, 2002 were used to retire the bonds at that date.

13. CALL OPTION

In August 1998, we entered into a call option contract with an investment bank related to the issuance of $400 million of our 6.25% senior unsecured notes that have a final maturity of August 15, 2018 and are putable and callable on August 15, 2003. This call option contract is required to be settled by August 2003 through either a remarketing or refinancing of the senior notes or a cash payment. If settled through a remarketing, the liability will be amortized as a credit to interest expense over the term of the new debt. The investment bank will price the notes to yield a market premium adequate to allow the investment bank to retain proceeds equal to the fair value of the call option at that time. The ultimate value of the call option will be based on the difference between the 10-year United States Treasury rate on August 12, 2003 and 5.44%. If the 10-year United States Treasury rate on August 12, 2003 is less than 5.44%, we may have a liability to the investment bank at that time. At September 30, 2002, our potential liability under this contract was $69.9 million. Based on the current 10-year forward treasury rate on November 12, 2002 of 4.28%, we would potentially be obligated to make a cash payment of approximately $51.0 million to settle the contract on August 12, 2003. The amount of our liability will increase or decrease approximately $5 million for every 10-basis point change in the 10-year forward treasury rate. We are evaluating whether alternatives are available to reduce or eliminate the amount of the cash payment necessary to settle the call option.

At the time of issuance of the notes in 1998, in accordance with GAAP, we were not required to account separately for the call option. However, when we began retiring these notes as a part of our overall debt reduction strategy, the portion of the call option associated with the retired notes became a free-standing option, and is treated as a derivative instrument under SFAS No. 133. In addition, under SFAS No. 133, we are required to mark to market changes in the anticipated amount of the liability related to the portion of the $400 million in notes that have been retired so that our balance sheet reflects the current fair value of the free standing portion of the call option contract. For the three months ended September 30, 2002, we recorded a non-cash charge of $15.5 million, net of $10.2 million tax, to reflect the fair value of the call option at September 30, 2002. For the nine months ended September 30, 2002, we recorded a non-cash charge of $16.3 million, net of $10.7 million tax, to reflect the fair value of the call option at September 30, 2002. We cannot predict changes in the market value of this option and therefore cannot estimate amounts of future mark-to-market non-cash charges associated with the call option.

14. EXTRAORDINARY GAIN ON SECURITIES

Protection One's and our debt securities were repurchased in the open market and gains were recognized on the retirement of these debt securities. Prior to July 1, 2002, these were recognized as extraordinary gains.

Effective July 1, 2002, we adopted SFAS No. 145. This standard limits the income statement classification of gains and losses from extinguishment of debt as extraordinary to those transactions meeting the criteria of Accounting Principles Board (APB) Opinion No. 30, "Reporting the Results of Operations — Reporting the Effects of Disposal of a Segment of a Business, and Extraordinary, Unusual and Infrequently Occurring Events and Transactions." SFAS No. 145 prohibits treating gains and losses associated with extinguishments resulting from a company's risk management strategy as extraordinary. Under SFAS 145, current gains and losses from the extinguishment of debt are reported as other income. Gains or losses in prior periods that were previously classified as extraordinary that do not meet the APB Opinion No. 30 criteria have been reclassified to other income. The adoption of this standard did not impact our net income or financial condition.

15. LEGAL PROCEEDINGS

We, Westar Industries, Protection One, its subsidiary Protection One Alarm Monitoring, Inc. (Monitoring) and certain present and former officers and directors of Protection One were defendants in a purported class action litigation pending in the United States District Court for the Central District of California, "Alec Garbini, et al. v. Protection One, Inc., et al.," No. CV 99-3755 DT (RCx). On August 20, 2002, the parties filed a Stipulation of Settlement which provides for, among other things, no finding of wrongdoing on the part of any of the defendants, or any other finding that the claims alleged had merit, and a $7.5 million payment to the plaintiffs, which has been fully funded by Protection One's existing insurance. On November 4, 2002, the district court approved the settlement and entered an Order and Final Judgment. The court certified a class for settlement purposes consisting of all persons and entities who purchased or otherwise acquired the common stock of Protection One during the time period beginning and including February 10, 1998 through February 2, 2001. The Order and Final Judgment provides for, among other things, dismissal with prejudice and release of all Class members' claims against us, Westar Industries, Protection One, Monitoring, and the present and former officers and directors of Protection One.

On September 24, 2002, PNM and we settled the litigation between us. Each side agreed to release all of its claims and potential claims in connection with the transaction.

We and our subsidiaries are involved in various other legal, environmental and regulatory proceedings. We believe that adequate provisions have been made and accordingly believe that the ultimate disposition of such matters will not have a material adverse effect upon our overall financial position or results of operations. See also Notes 6 and 7 for discussion of FERC proceedings, Note 17 for a discussion of a federal investigation by the United States Attorney's Office and Note 19 for a discussion of an inquiry by the Securities and Exchange Commission and the indictment of our chief executive officer.

16. RELATED PARTY TRANSACTIONS

Below we describe significant transactions between us and Westar Industries and other subsidiaries and related parties. We have disclosed significant transactions even if these have been eliminated in the preparation of our consolidated results and financial position since we may undergo a financial and corporate restructuring as a result of the KCC order of November 8, 2002 discussed in Note 7, although the details of such restructuring cannot presently be predicted.

Transactions with Westar Industries

On February 28, 2001, Westar Industries converted $350 million of the then outstanding balance of a payable due from us into approximately 14.4 million shares of our common stock, representing 16.9% of our issued common stock after conversion. During the first quarter of 2002, we paid the remaining payable balance owed to Westar Industries of approximately $68 million. The proceeds were used by Westar Industries to purchase our outstanding debt in the open market, which we have accounted for as debt extinguishments. In the second quarter of 2002, Westar Industries transferred to us $71.8 million of our debt securities in exchange for 4,222,134 shares of our common stock. Amounts outstanding and interest earned by Westar Industries have been eliminated in our consolidated financial statements. At September 30, 2002, Westar Industries owned 20,015,646 shares, or 21.7%, of our issued common stock. These shares are reflected as treasury stock in our consolidated balance sheets and are not included in our earnings per share calculations. These shares cannot be voted so long as we own at least a majority of the common stock of Westar Industries, but can be voted and will be deemed to be outstanding if we do not own a majority of such shares. Dividends are paid on the shares and a portion is paid in cash and a portion is reinvested in our common stock under our dividend reinvestment plan.

Transactions Between Westar Industries and Subsidiaries

Protection One Credit Facility

Westar Industries is the lender under Protection One's senior credit facility. The senior credit facility was amended to increase the capacity from $155 million to $280 million during the first nine months of 2002. On August 26, 2002, the senior credit facility was further amended to extend the maturity date to January 5, 2004. Protection One incurred amendment fees totaling $2.4 million for these amendments. As of September 30, 2002, approximately $214.0 million was drawn under the facility. The remaining availability under this facility as of September 30, 2002 was $66.0 million. At November 8, 2002, Protection One had outstanding borrowings of $215.5 million and $64.5 million of remaining capacity. The KCC has issued an order prohibiting Westar Energy from making loans or capital contributions to Westar Industries without KCC approval. This order limits the resources available to Westar Industries for funding its obligations under the senior credit facility. Amounts outstanding, accrued interest and facility fees have been eliminated in our consolidated financial statements.

Purchases of Securities

During the three and nine months ended September 30, 2002, Westar Industries and Protection One purchased a total of $33.7 million and $114.5 million, respectively, face value of Protection One bonds on the open market. We recognized a gain from the purchase of Protection One bonds of $2.4 million, net of tax of $1.3 million, during the three months ended September 30, 2002 and $12.4 million, net of tax of $6.7 million, during the nine months ended September 30, 2002.

During the three and nine months ended September 30, 2002, Westar Industries, Protection One and we purchased a total of $95.4 million and $292.8 million, respectively, face value of Westar Energy bonds on the open market. For the three months ended September 30, 2002, we recognized a gain from the purchase of our bonds of $2.1 million, net of tax of $1.4 million, and for the nine months ended September 30, 2002, we recognized $6.1 million, net of tax of $4.0 million. We recognized a loss related to the fair value of a call option associated with our 6.25% senior unsecured notes at the time the notes were retired of $3.7 million, net of $2.5 million tax benefit, for the three months ended September 30, 2002, and we recognized a loss of $8.3 million, net of $5.5 million tax benefit, for the nine months ended September 30, 2002.

During the nine months ended September 30, 2002, Protection One purchased approximately $1.5 million of our preferred stock in open market purchases. These purchases have been accounted for as retirements in our consolidated financial statements. We recognized a gain on reacquired preferred stock of approximately $0.6 million, net of tax of $0.4 million, for the nine months ended September 30, 2002 related to these retirements.

See Note 14 for information about a change in accounting treatment that eliminates recognition as extraordinary gains and losses on the purchases and sales of these securities.

Financial Advisory Services

Protection One has entered into an agreement pursuant to which it pays a quarterly fee to Westar Industries for financial advisory services equal to 0.125% of its consolidated total assets at the end of each quarter. This agreement was approved by the independent members of Protection One's board of directors. Protection One incurred approximately $1.3 million of such fees in the third quarter of 2002 and approximately $4.0 million of such fees in the nine months ended September 30, 2002. These amounts have been eliminated in our consolidated financial statements.

Transactions with Protection One

During the fourth quarter of 2001, KGE entered into an option agreement to sell an office building located in downtown Wichita, Kansas, to Protection One for approximately $0.5 million. The sales price was determined by management based on three independent appraisers' findings. This transaction was completed during June 2002. Although we recognized a loss of $2.6 million on this transaction, we expect to realize annual operating cost savings of approximately $0.9 million. The cost savings will be treated as a regulatory liability in accordance with a March

26, 2002 KCC order. For the nine months ended September 30, 2002, we recorded $0.2 million in cost savings as a regulatory liability.

Effective July 1, 2002, we entered into an outsourcing agreement with a newly formed subsidiary of Protection One, named Protection One Data Services, Inc. (PODS), pursuant to which we outsourced to PODS a significant portion of the services and functions previously performed by our internal information technology department. Approximately 100 of our information technology department employees became employees of PODS. PODS will perform the information technology services and functions for a fixed annual fee of approximately $20.9 million, subject to adjustment. No assets were transferred to PODS, but PODS has access to our equipment, software and facilities to provide the information technology services. The outsourcing agreement expires December 31, 2005, subject to the right of either party to terminate the agreement on six months prior written notice, provided that notice of termination may not be given prior to June 30, 2003. On July 30, 2002, we filed an application for an accounting authority order with the KCC to allow the creation of a regulatory liability for the approximate $1.5 million annual cost savings expected to be achieved as a result of this transaction. As of September 30, 2002, we recorded $0.4 million in cost savings as a regulatory liability.

On August 16, 2002, the KCC initiated an investigation as to whether participation by us and PODS in this transaction and relationship is consistent with Kansas law, including our and KGE’s statutory obligation to provide efficient and reliable service to Kansas customers at just and reasonable rates. A technical hearing concerning this matter is scheduled for December 12, 2002. Subject to the outcome of the investigation, the KCC conditionally approved the accounting order to preserve the cost savings attributable under the agreement.

We provide administrative services to Protection One pursuant to services agreements, including purchasing, accounting, tax, audit, human resources, legal and facilities services. Prior to July 1, 2002, we also provided information technology services, which are included in the following charges for the nine months ended September 30, 2002 and the 2001 periods. Protection One incurred charges of approximately $0.6 million for the three months ended September 30, 2002 and $2.4 million for the same period of 2001 and approximately $3.6 million for the nine months ended September 30, 2002 and $6.7 million for the same period of 2001. We had a net intercompany balance due from Protection One primarily for these services of approximately $3.9 million at September 30, 2002 and $1.7 million at December 31, 2001.

Loans to Officers

During 2001 and 2002, we extended loans to our officers for the purpose of purchasing shares of our common stock on the open market. The officers are personally liable for the repayment of the loans, which are unsecured and bear interest, payable quarterly, at a variable rate equal to our short-term borrowing rate. The loans mature on December 4, 2004. The aggregate balance outstanding at September 30, 2002 was approximately $2.0 million, which is classified as a reduction to shareholders’ equity in the accompanying consolidated balance sheet. For the nine months ended September 30, 2002, we recorded approximately $72,000 in interest income on these loans. No additional loans will be made as a result of recently adopted federal legislation.

17. GRAND JURY SUBPOENA

On September 17, 2002, we were served with a federal grand jury subpoena by the United States Attorney’s Office concerning the use of aircraft leased by subsidiaries and annual shareholder meetings. Since that date, the United States Attorney’s Office has served additional information requests on us and certain of our employees requesting further information concerning the use of aircraft, compensation arrangements with David C. Wittig and Douglas T. Lake, the rights offering and the company generally. We are providing information in response to these requests. Our board of directors has appointed a Special Committee of directors to investigate management matters including those that are the subject of the grand jury investigation. The Special Committee has retained counsel and other advisors.

18. SEGMENTS OF BUSINESS

Our business is segmented based on differences in products and services, production processes and management responsibility.

We have three reportable segments: Electric Utility, Monitored Services and Other. Electric Utility consists of our integrated electric utility operations doing business as Westar Energy. Monitored Services, including the net effect of minority interests, is comprised of our security alarm monitoring business in North America and Europe. Other includes our approximate 45% ownership interest in ONEOK, investments in international power generation facilities and other investments in the aggregate not material to our business or results of operations.

The accounting policies of the segments are the same as those described in our 2001 Form 10-K in Note 2, “Summary of Significant Accounting Policies.” Segment performance is based on earnings (losses) before interest and taxes (EBIT). Prior year segment information has been reclassified, as necessary, to conform with the current year’s presentation.

Three Months Ended September 30, 2002:

	Electric Utility (a)	Monitored Services	Other (b)	Total
	(In Thousands)			
Sales	$ 442,145	$ 86,970	$ —	$ 529,115
Earnings (losses) before interest and taxes	124,266	1,370	11,644	137,280
Interest expense				70,155
Earnings before income taxes				67,125

Three Months Ended September 30, 2001:

	Electric Utility	Monitored Services	Other (c) (d)	Total
	(In Thousands)			
Sales	$ 417,639	$ 95,510	$ 341	$ 513,490
Earnings (losses) before interest and taxes	113,960	(17,942)	20,613	116,631
Interest expense				66,625
Earnings before income taxes				50,006

Nine Months Ended September 30, 2002:

	Electric Utility (e)	Monitored Services	Other (c) (f)	Total
	(In Thousands)			
Sales	$ 1,091,847	$ 261,862	$ 252	$ 1,353,961
Earnings (losses) before interest and taxes	203,001	(227,562)	53,286	28,725
Interest expense				201,120
Losses before income taxes				(172,395)

Nine Months Ended September 30, 2001:

	Electric Utility (g)	Monitored Services	Other (c) (h)	Total
		(In Thousands)		
Sales	$ 1,029,937	$ 315,838	$ 1,031	$ 1,346,806
Earnings (losses) before interest and taxes	203,668	(59,499)	11,951	156,120
Interest expense				197,949
Losses before income taxes				(41,829)

(a) EBIT includes $25.7 million recorded for marking to market the call option of the 6.25% put/call bonds.
(b) EBIT includes investment earnings of $12.0 million.
(c) Sales are from a wholly owned subsidiary of Westar Industries providing paging services, which was sold during the first quarter of 2002.
(d) EBIT includes earnings on investments of $10.8 million and gain on extinguishment of debt of $11.2 million.
(e) EBIT includes $27.0 million recorded for marketing to market the call option of the 6.25% put/call bonds.
(f) EBIT includes investment earnings of $57.4 million consisting of a one-time payment of approximately $14.2 million related to a partial recovery of an investment and approximately $35.8 million of ONEOK investment earnings.
(g) EBIT does not include the unrealized gain on derivatives reported as a cumulative effect of a change in accounting principle. If the effect had been included, EBIT would have been $234.7 million.
(h) EBIT includes investment earnings of $21.9 million and loss on extinguishment of debt of $9.5 million.

As a result of the impairment charge recorded in the first quarter of 2002, monitored services' total assets decreased significantly. The table below summarizes the segments' identifiable assets at September 30, 2002 and December 31, 2001:

	Electric Utility	Monitored Services	Other	Total
		(In Thousands, Except Percentages)		
Identifiable assets at September 30, 2002	$ 5,074,329	$ 804,956	$ 810,699	$ 6,689,984
Identifiable assets at December 31, 2001	4,901,457	1,883,786	723,289	7,508,532
Percent change	3.5 %	(57.3)%	12.1%	(10.9)%

19. SUBSEQUENT EVENTS

Potential Sale of Assets

On October 14, 2002, we announced that we have reached an agreement with Midwest Energy, Inc. (Midwest Energy). We plan to sell to Midwest Energy a portion of our transmission and distribution assets and rights to provide service to customers in an area of central Kansas. The sale will affect about 10,000 customers over 895 square miles. The area, which includes 42 towns, is on the west edge of our service territory and is largely surrounded by Midwest Energy's existing territory. The proposed sale is contingent upon approval by the KCC and FERC. Closing of the transaction is expected to occur in the first quarter of 2003.

Purchases of Securities

On November 5, 2002, we purchased $20 million of our 6.25% senior unsecured notes that are putable and callable on August 15, 2003. This purchase is reflected in the November 6, 2002 outstanding principal balance of $146.4 million discussed in Note 12 above. In determining the loss reported on this transaction, we recognized losses related to the fair value of the call option associated with our 6.25% senior unsecured notes at the time the notes were retired. We recognized a loss of $1.0 million, net of $0.6 million tax benefit, as a result of this transaction.

Securities and Exchange Commission Inquiry

Protection One, Arthur Andersen LLP, our former independent auditor, and we were advised on November 1, 2002 by the Staff of the Securities and Exchange Commission that the Staff will be inquiring into our accounting practices with respect to the restatement of our first and second quarter 2002 consolidated financial statements announced in November 2002 and the related announcement that our and Protection One's 2000 and 2001 financial statements will be reaudited.

Indictment of Chief Executive Officer

On November 7, 2002, our board of directors placed David C. Wittig, our Chairman of the Board, President and Chief Executive Officer, on administrative leave without pay from all of his positions with us or any of our affiliates following his indictment by a federal grand jury in Topeka, Kansas, for actions arising from his personal dealings with the former president of a Topeka, Kansas, bank. Our board of directors intends to appoint an acting President and Chief Executive Officer promptly.

WESTAR ENERGY, INC.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

INTRODUCTION

The following Management's Discussion and Analysis of Financial Condition and Results of Operations updates the information provided in our Annual Report on Form 10-K for the year ended December 31, 2001 (2001 Form 10-K), and should be read in conjunction with that report. In this section, we discuss the general financial condition, significant changes and operating results for us and our subsidiaries. We explain:

- what factors impact our business,
- what our earnings and costs were for the three and nine months ended September 30, 2002 and 2001,
- why these earnings and costs differ from period to period,
- how our earnings and costs affect our overall financial condition and
- any other items that particularly affect our financial condition or earnings.

SUMMARY OF SIGNIFICANT ITEMS

November 8, 2002 KCC Order

On November 8, 2002, the KCC issued an order addressing our proposed financial plan. The order contained the following findings and directions.

- The order rejects our proposed financial plan.
- The order directs us to reverse certain transactions, including reversing accounting entries so certain capital contributions by us to Westar Industries are reflected as an intercompany payable owed by Westar Industries to us, and reversing all transactions in 2002 recorded as equity investments by us in Westar Industries so such transactions are reflected as intercompany payables owed by Westar Industries to us. We are required to submit a report within 30 days of the date of the order certified by our chief financial officer as to compliance with these requirements.
- The order directs us to submit a plan within 90 days for restructuring our organizational structure so that our electric utility business operating as a division of us is placed in a separate subsidiary. The plan is required to include the process for restructuring, an analysis of whether the restructuring is consistent with our present debt indentures and loan agreements, and if not, the necessary amendments to proceed with the restructuring. The restructuring plan is required to be accompanied by an updated cost allocation manual to track costs and investments attributable to our regulated electric utility and non-regulated activities. Following approval of the restructuring plan and the updated cost allocation manual, we will be required to provide the KCC with separate quarterly financial statements for us and our electric utility subsidiaries.
- The order directs us to provide a written explanation if the amount of debt secured by utility assets which we transfer to the new utility subsidiary exceeds $1.5 billion. For the two years beginning on the date we submit our restructuring plan, we are required to reduce secured utility debt by at least $100 million each year from cash flow.
- The order directs us to reduce our consolidated debt, to consider certain actions for reducing our consolidated debt, and to provide expert testimony supporting any decision to reject a suggested action. The suggested actions include payments of $100 million each year from cash flow, the issuance of common stock, the sale of ONEOK, Inc. stock, a reduction in, or elimination of, our dividend, and the sale of Protection One.
- The order initiates an investigation into the appropriate type, quantity, structure and regulation of the nonutility businesses with which our utility businesses may be affiliated.
- The order establishes standstill protections requiring that we seek KCC approval before we take certain actions including making any loan to, investment in or transfer of cash in excess of $100,000 to a nonutility affiliate, entering into any agreement with a nonutility affiliate where the value of goods or services exchanged exceeds $100,000, investing, by us or an affiliate, of more than $100,000 in an existing or new nonutility business, transferring any non-cash assets or intellectual property to any non-utility affiliate, issuing any debt, or selling any ONEOK, Inc. stock without complying with the requirements of a July 9, 2002 KCC order. In addition, we must charge interest to nonutility affiliates at the incremental cost of their debt on outstanding balances of any existing or future interaffiliate loans, receivables or other cash advances due us. These restrictions apply both to us and our KGE subsidiary.

We are in the process of reviewing and assessing the order and its potential impact on our operations, financial condition and results of operations and we expect to file a motion for reconsideration or clarification of some provisions of the order. Since the order was issued recently and we are still assessing it, there may be additional issues arising from the order not discussed here.

Potential Changes in ONEOK Ownership

On May 30, 2002, Westar Industries, Inc. (Westar Industries) gave notice pursuant to a shareholder agreement with ONEOK, Inc. (ONEOK) of its intention to sell all of the common stock and preferred stock of ONEOK owned by Westar Industries. ONEOK had until August 28, 2002 to purchase the stock, but advised Westar Industries that it would not purchase the stock. Accordingly, Westar Industries is now free to pursue a sale of the stock and is free of certain restrictions (including percentage limitations on sales) contained in the shareholder agreement. On August 29, 2002, Westar Industries announced that it intends to sell its ownership in the common stock and preferred stock of ONEOK, which represents an approximate 45% ownership interest in ONEOK. Westar Industries plans to sell outright, or sell an option to purchase, all or a portion of the ONEOK stock it owns in privately negotiated transactions, or sales into the public market. Under the shareholder agreement, ONEOK must take all commercially reasonable steps to assist Westar Industries in securing such regulatory approvals as may be necessary to allow a sale of the stock provided such approvals would not reasonably be expected to have a material adverse effect on ONEOK. Westar Industries has until September 30, 2003 to complete a sale of the stock. We cannot predict the outcome of this proposed sale of ONEOK stock nor can we predict the net proceeds we would receive. If the ONEOK stock is not sold, the original provisions of the shareholder agreement will return in full force and effect.

Declines in Energy Markets

During 2002, the energy trading market deteriorated due to the effects of overcapacity in the region, the impact of the prolonged recessionary environment and a reduced number of creditworthy counter parties. This deterioration has resulted in significant declines in volume and liquidity, influencing the wholesale power market, primarily in the forward market. As a result, numerous participants in the market for wholesale trading of electricity have recently suffered financial setbacks that have been reported in the media and in Securities and Exchange Commission (SEC) reports. In relation to illegal or inappropriate trading practices, the Federal Energy Regulatory Commission (FERC) and the SEC are investigating many of these same participants. Market capitalization of these companies has been substantially reduced and credit ratings have, in many cases, been downgraded. Our power marketing group routinely does business with some of these companies and these companies may be counter parties to several other entities with whom we routinely do business. These developments have adversely impacted our power marketing business and we are unable to predict if or when the business environment will improve. Due to our efforts in executing energy trading contracts and monitoring our exposure, we have not experienced any credit related losses with counterparties.

CRITICAL ACCOUNTING POLICIES

Since December 31, 2001, we have not experienced any significant changes in our critical accounting policies except for the impact of the defeasance of outstanding debt and the change in depreciation rates as discussed below. For additional information on our critical accounting policies, see our 2001 Form 10-K.

Defeasance of Outstanding Debt

In accordance with accounting principles generally accepted in the United States of America (GAAP), we are required to continue reporting as outstanding debt on our consolidated balance sheet the $135 million principal amount of Kansas Gas and Electric Company (KGE) first mortgage bonds due December 15, 2003, until the funds deposited with the trustee are used to retire such bonds at maturity. The cash deposited with the trustee is included in restricted cash on our consolidated balance sheet and can only be used for the purpose of repaying this indebtedness and related interest. The funds deposited to retire the $100 million principal amount of our 7.25% first mortgage bonds due August 15, 2002 were used to retire the bonds at that date. See Note 12 of the Notes to Consolidated Financial Statements, “Debt Financings” for discussion of debt financings completed during the second quarter of 2002.

Change in Depreciation Rates

In its rate order of July 25, 2001, the KCC extended the recovery period for certain of our generating assets for regulatory rate making purposes. On April 1, 2002, we adopted the new depreciation rates as prescribed in the KCC order for GAAP purposes, after exhausting the available appeals process to contest the extension of our recovery periods for our LaCygne 2 and Wolf Creek generating stations. This change is expected to reduce our annual depreciation expense in our GAAP financial statements by approximately $30 million. See Note 6 of the Notes to Consolidated Financial Statements, “Rate Matters and Regulation” for additional information.

Earnings Per Share

Basic earnings per share applicable to common stock are based on the weighted average number of common shares outstanding during the period reported. Diluted earnings per share include the effect of potential issuances of common shares resulting from the assumed vesting of all outstanding restricted share units (RSUs) and exercise of all outstanding stock options issued pursuant to the terms of our stock-based compensation plans. The dilutive effect of stock-based compensation and stock options is computed using the treasury stock method. The number of potential dilutive securities for the three and nine months ended September 30, 2002 were 0.4 million and 0.6 million, respectively. The potentially dilutive securities for the nine months ended September 30, 2002 for restricted share awards of 0.6 million shares and stock for compensation of 5,000 shares were not included in the computation of diluted earnings per share since to do so would have been antidilutive.

Diluted earnings per share amounts shown in the accompanying financial statements reflect the inclusion of employee stock options, restricted share awards and other stock compensation. The following represents a reconciliation of weighted average shares outstanding.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2002	2001	2002	2001
	(In Thousands)			
DENOMINATOR FOR BASIC AND DILUTED EARNINGS PER SHARE:				
Denominator for basic earnings per share - weighted average shares (a)	71,443	70,736	71,486	70,503
Effect of dilutive securities:				
Employee stock options	—	3	—	4
Restricted share awards	444	379	—	274
Stock for compensation	—	264	—	264
Denominator for diluted earnings per share - weighted average shares	71,887	71,382	71,486	71,045

(a) The amounts in the table above do not include shares owned by Westar Industries or Protection One.

OPERATING RESULTS

The following discussion explains significant changes in operating results for the three and nine months ended September 30, 2002 and 2001.

Westar Energy Consolidated

Three Months Ended September 30, 2002, Compared to Three Months Ended September 30, 2001: Sales increased $15.6 million, or 3%, primarily as a result of increased electricity sales. Retail electric sales increased $24.3 million, or 7%, primarily due to increased residential sales volumes and increased other revenues caused by the new Southwest Power Pool (SPP) network tariff as discussed below in “ — Business Segments — Electric Utility.” Power marketing, wholesale and interchange revenues increased $0.2 million primarily due to declines in wholesale sales caused by lower prices and current market conditions. Monitored services sales decreased $8.9 million, or 9%, which was primarily caused by the decline in its customer base, which was due to attrition. See “— Business Segments — Monitored Services” below for additional information.

Cost of sales decreased $14.8 million, or 9%. The decrease in the cost of sales was primarily due to a decline of $8.2 million in purchased power expense and a decrease of $6.1 million in fuel expense. Protection One, Inc.’s (Protection One) efforts to reduce costs through consolidation of service centers and other cost cutting measures also contributed to the decline in cost of sales. Gross profit increased $30.4 million due to the above mentioned factors. Gross profit as a percentage of sales increased from 69% during the 2001 period to 73% during the 2002 period.

Basic earnings per share were $0.61 for the third quarter of 2002, compared to $0.51 for the same period of 2001.

Nine Months Ended September 30, 2002, Compared to Nine Months Ended September 30, 2001: Sales increased $7.2 million, or approximately 1%. Energy sales increased $61.9 million primarily as a result of a $46.3 million increase in retail electric sales, which was largely due to increased residential sales volumes caused by warmer weather during September 2002, despite lower retail rates. Also contributing to the increased energy sales was an increase in commercial revenues in the first half of the year and an increase in other revenues caused by the new SPP Tariff as discussed below in “—Business Segments — Electric Utility.” An increase in power marketing, wholesale and interchange sales also contributed to the increased energy sales revenues. Partially offsetting the increase in energy sales was a decrease in monitored services sales of $54.8 million, or 17%, which was caused by the decline in its customer base, due in part to attrition and dispositions in 2001 and 2002 of certain monitored services operations. See "— Business Segments — Monitored Services" below for additional information.

Cost of sales decreased $36.7 million, or 9%. The decrease in the cost of sales was primarily due to Protection One's efforts to reduce costs through consolidation of service centers and other cost cutting measures. Energy cost of sales also contributed to the decrease primarily through decreased purchased power expense of $15.1 million. Gross profit increased $43.9 million due to the above mentioned factors. Gross profit as a percentage of sales increased from 69% during the 2001 period to 72% during the 2002 period.

Basic losses per share were $9.71 for the nine months ended September 30, 2002, compared to basic earnings per share of $0.13 for the same period of 2001. This change is primarily attributable to the impairment charge recorded in the first quarter of 2002.

Business Segments

Our business is segmented based on differences in products and services, production processes and management responsibility.

We have three reportable segments: Electric Utility, Monitored Services, and Other. Electric Utility consists of our integrated electric utility operations, including the generation and purchase of power, the transmission and distribution of power to our retail customers in Kansas and to wholesale customers, and our power marketing activities, which attempt to minimize commodity price risk associated with fuel purchases and purchased power requirements. Monitored Services, including the net effect of minority interests, is comprised of our security alarm monitoring business in North America and Europe. Other includes our approximate 45% ownership interest in ONEOK, investments in international power generation facilities and other investments in the aggregate not material to our business or results of operations.

The accounting policies of the segments are the same as those described in our 2001 Form 10-K in Note 2, "Summary of Significant Accounting Policies" in the Notes to Consolidated Financial Statements. Prior year segment information has been reclassified, as necessary, to conform with the current year's presentation.

We manage our business segments' performance based on earnings (losses) before interest and taxes (EBIT). EBIT does not represent cash flow from operations as defined by GAAP, should not be construed as an alternative to operating income and is indicative neither of operating performance nor cash flows available to fund our cash needs. Items excluded from EBIT are significant components in understanding and assessing our financial performance. Interest expense, income taxes, discontinued operations, cumulative effects of accounting changes and preferred stock are items that are excluded from the calculation of EBIT. We believe presentation of EBIT enhances an understanding of financial condition, results of operations and cash flows because EBIT is used by us to satisfy our debt service obligations, capital expenditures and other operational needs, as well as to provide funds for growth. EBIT is the primary measurement used by our management to evaluate segment performance. Our computation of EBIT may not be comparable to other similarly titled measures of other companies.

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Electric Utility

Our electric sales for the three and nine months ended September 30, 2002 and 2001 are as follows:

	Three Months Ended September 30,		
	2002	2001	% Change
	(In Thousands)		
Residential	$ 165,725	$ 153,359	8.0
Commercial	122,072	122,041	—
Industrial	65,967	66,733	(1.1)
Other	26,356	13,675	92.7
Total retail	$ 380,120	$ 355,808	6.8
Power Marketing/Wholesale and Interchange	62,025	61,831	0.3
Total	$ 442,145	$ 417,639	5.9

	Nine Months Ended September 30,		
	2002	2001	% Change
	(In Thousands)		
Residential	$ 353,136	$ 346,163	2.0
Commercial	298,462	292,670	2.0
Industrial	183,412	189,248	(3.1)
Other	77,613	38,236	103.0
Total retail	$ 912,623	$ 866,317	5.3
Power Marketing/Wholesale and Interchange	179,224	163,620	9.5
Total	$ 1,091,847	$ 1,029,937	6.0

The following table reflects changes in electric sales volumes, as measured by megawatt hours (MWh), for the three and nine months ended September 30, 2002 and 2001. No sales volumes are included for power marketing sales because these sales are not based on electricity we generate.

	Three Months Ended September 30,		
	2002	2001	% Change
	(Thousands of MWh)		
Residential	2,189	1,992	9.8
Commercial	2,093	2,122	(1.3)
Industrial	1,444	1,513	(4.5)
Other	26	27	—
Total retail	5,752	5,654	1.7
Wholesale and Interchange	2,035	1,799	13.1
Total	7,787	7,453	4.4

	Nine Months Ended September 30,		
	2002	2001	% Change
	(Thousands of MWh)		

Residential	4,903	4,703	4.2
Commercial	5,249	5,166	1.6
Industrial	4,099	4,336	(5.4)
Other	80	80	—
Total retail	14,331	14,285	0.3
Wholesale and Interchange	6,544	5,532	18.2
Total	20,875	19,817	5.3

Details concerning EBIT and assets attributable to our electric utility segment are summarized in the tables below:

	2002	2001
	(In Thousands)	
EARNINGS (LOSSES) BEFORE INTEREST AND TAXES:		
Three Months Ended September 30	$ 124,266	$ 113,960
Nine Months Ended September 30	$ 203,001	$ 203,668

	September 30, 2002	December 31, 2001
	(In Thousands)	
Identifiable assets	$ 5,074,329	$ 4,901,457

Three Months Ended September 30, 2002, Compared to Three Months Ended September 30, 2001: Retail sales increased primarily due to increased residential sales volumes caused by warmer weather during September 2002 and increased other revenues caused by the new SPP tariff. The new tariff requires us to pay to the SPP all expenses associated with transporting power from our generating stations. The SPP then pays us for distributing power to our retail customers and these payments are reflected in other revenues. Prior to the implementation of the new tariff, we had offsetting revenues and expenses, because an internal allocation was used. Power marketing, wholesale and interchange sales remained relatively constant despite an increase in wholesale and interchange sales volumes, which was largely due to lower wholesale prices and current market conditions.

Cost of sales is comprised of fuel used for generation and purchased power expense. Cost of sales decreased $14.4 million, or 11%, primarily due to a decline of $8.2 million in purchased power expense and a decrease of approximately $6.1 million in fuel expense. Gross profit increased $38.9 million, or 13%, due to the above mentioned factors.

Operating expenses decreased $1.1 million, or approximately 1%, primarily due to expensing in 2001 the costs associated with the PNM transaction and a decline in depreciation related to the change in our depreciation rates as discussed above in "— Critical Accounting Policies — Change in Depreciation Rates." Partially offsetting these decreases was an increase in operating expense of $9.4 million primarily due to a scheduling charge from the SPP as a result of the new SPP network tariff as discussed above.

Due to the above factors, income from operations increased $40.0 million. Partially offsetting this increase in operating income was an increase in other expense of $29.7 million, which was primarily due to recording a non-cash mark-to-market charge on the call option of the 6.25% senior unsecured notes that are putable and callable on August 15, 2003. EBIT increased $10.3 million as a result.

Nine Months Ended September 30, 2002, Compared to Nine Months Ended September 30, 2001: Retail sales increased primarily due to increased residential sales volumes caused by warmer weather during September 2002, despite lower retail rates. Also contributing to the increased sales was increased commercial revenues in the first half of the year and an increase in other revenues caused by the SPP network tariff as discussed above. Partially offsetting these increases in retail sales was a decrease in industrial revenues and volumes primarily due to lower industrial demand related to weak economic conditions. Power marketing, wholesale and interchange sales revenues increased primarily due to an increase in wholesale and interchange sales volumes.

Cost of sales decreased $13.6 million, or 4%, primarily due to a $15.1 million decrease in purchased power. Partially offsetting this decrease was an increase of approximately $1.5 million in fuel expense.

Gross profit increased $75.5 million, or 10%, due to the above mentioned factors. The increase in gross profit is partly due to how we were required to record a gain on certain derivatives acquired in 2001 to mitigate the risk of changing prices on our natural gas fuel requirements. Prior to the adoption of Statement of Financial Accounting Standards (SFAS) No. 133 on January 1, 2001, gains and losses on these derivatives were deferred until settlement and reflected in gross profit at that time. However, upon adoption of SFAS No. 133, "Accounting for Derivative Instruments and Hedging Activities," we were required to report a $31.0 million gain on these contracts as of that date as a cumulative effect of a change in accounting principle. This gain was reported on our consolidated statements of income for the nine months ended September 30, 2001 on a net-of-tax basis below income tax expense in accordance with accounting standards. All gains and losses after January 1, 2001 on our derivatives that are not designated as hedges are reflected in gross profit. Had we included the gain in revenues in 2001, our $75.5 million increase in gross profit would have been an increase of $44.5 million because the decline in sales would have been smaller than the decline in cost of sales.

A portion of the increase in fuel expense was attributable to the maintenance outage at Wolf Creek as other more expensive sources of power were used to replace the loss of power from Wolf Creek. Wolf Creek has a scheduled refueling and maintenance outage approximately every 18 months. Wolf Creek was shut down for 36 days for its 12th scheduled refueling and maintenance outage, which began on March 23, 2002 and ended on April 27, 2002. Wolf Creek operated the entire year of 2001 without any refueling outages.

Operating expenses increased $46.4 million, or 9%, primarily due to a scheduling charge from the SPP as a result of the new SPP network tariff as discussed above, as a result of employee severance costs related to the work force reduction during the first quarter and the compensation expense associated with the exchange of previous RSU grants as discussed in Note 10 of the Notes to Consolidated Financial Statements, "Stock Based Compensation Plans." Partially offsetting these increases was a decrease in depreciation expense of $7.1 million primarily due to the change in depreciation rates as discussed above in "— Critical Accounting Policies — Change in Depreciation Rates." In addition, our maintenance expense has declined over the nine months ending September 30, 2002 due to the reduction of the forced outage rates of our generating units.

Due to the above factors, income from operations increased $29.1 million. Partially offsetting this increase in operating income was an increase in other expense of $29.8 million, which was primarily due to recording a non-cash mark-to-market charge on the call option of the 6.25% senior unsecured notes that are putable and callable on August 15, 2003. EBIT decreased $0.7 million as a result. For more information regarding the 6.25% senior unsecured notes and related call option, see "— Liquidity and Capital Resources" below.

Monitored Services

Protection One and Protection One Europe comprise our monitored services business segment. The results discussed below reflect monitored services on a stand-alone basis. These results take into consideration Protection One's minority interest of approximately 12% at September 30, 2002 and approximately 13% at September 30, 2001. Details concerning EBIT attributable to our monitored services segment are as follows:

	Three Months Ended September 30,	
	2002	2001
	(In Thousands)	
Sales	$ 86,970	$ 95,510
Earnings (losses) before interest and taxes	1,370	(17,942)

	Nine Months Ended September 30,	
	2002	2001
	(In Thousands)	
Sales	$ 261,862	$ 315,838
Earnings (losses) before interest and taxes	(227,562)	(59,499)

	September 30, 2002	December 31, 2001
	(In Thousands)	
Identifiable assets	$ 804,956	$ 1,883,786

Three Months Ended September 30, 2002, Compared to Three Months Ended September 30, 2001: Sales decreased $8.5 million primarily due to a decline in the monitored services segment's average customer base, which was due primarily to attrition. The monitored services segment experienced a net decline of 9,248 customers in the third quarter of 2002. Protection One's customer base will continue to decline until its programs to acquire and create new accounts generate the volume of accounts required to equal or exceed those lost due to attrition. Protection One is also investing considerable effort to reduce attrition. While net losses have decreased significantly, until it achieves equilibrium between additions and attrition, net losses of customer accounts will materially and adversely affect its business, financial condition and results of operations. See "— Other Information — Monitored Services — Attrition" below for discussion regarding attrition. Protection One is currently focusing on reducing attrition, developing cost effective marketing programs and generating positive cash flow.

Cost of sales generally relate to the cost of providing monitoring service and include the costs of monitoring, billing, customer service and field operations. Cost of sales decreased $0.4 million primarily due to a reduction of telecommunication costs and wage expense associated with the consolidation of Protection One's call centers and other cost reduction initiatives. As a result of the continued decline in sales, gross profit decreased $8.2 million.

Operating expenses decreased $29.3 million primarily due to a $29.3 million decrease in depreciation and amortization expense primarily due to decreases in goodwill and customer account amortization as a result of adoption of SFAS No. 142 and SFAS No. 144. Partially offsetting this decrease was the gain on dispositions of monitored services operations recorded in the third quarter of 2001. Primarily as a result of the decline in operating expenses, EBIT increased $19.3 million.

Nine Months Ended September 30, 2002, Compared to Nine Months Ended September 30, 2001: Sales decreased $54.0 million primarily due to a decline in the monitored services segment's average customer base, which was due primarily to attrition and dispositions in 2001 and 2002 of certain monitored services operations. The monitored services segment experienced a net decline of 41,285 customers in the nine months ended 2002. Protection One's customer base will continue to decline until its programs to acquire and create new accounts generate the volume of accounts required to equal or exceed those lost due to attrition. Protection One is also investing considerable effort to reduce attrition. While net losses have decreased significantly, until it achieves equilibrium between additions and attrition, net losses of customer accounts will materially and adversely affect its business, financial condition and results of operations. See "— Other Information — Monitored Services — Attrition" below for discussion regarding attrition. Protection One is currently focusing on reducing attrition, developing cost effective marketing programs and generating positive cash flow.

Cost of sales decreased $23.0 million primarily due to a reduction of telecommunication costs and wage expense associated with Protection One's consolidation of its call centers and other cost reduction initiatives and due to dispositions in 2001 of certain monitored services operations. As a result of sales declining at a higher rate than cost of sales, gross profit decreased $31.0 million.

Operating expenses increased $205.6 million primarily due to a $338.1 million loss on impairment of customer accounts, which was partially offset by decreases in operating and maintenance, depreciation and amortization, selling, general and administrative expenses and the 2001 dispositions of monitored services operations. The decrease in depreciation and amortization expense of $91.3 million is primarily due to decreases in goodwill and customer account amortization as a result of the adoption of SFAS No. 142 and SFAS No. 144. Selling, general and administrative expenses decreased $23.8 million primarily due to reductions in outside services used by Protection One primarily due to completion of special software projects and a reduction in wages and related benefits due to a reduction in Protection One's workforce. Dispositions of monitored services operations in 2001 accounted for approximately $13.1 million of the decrease in operating expenses.

As a result of the decline in gross profit and the increases in operating and other expenses, our loss before interest and taxes increased $168.1 million. Also as a result of the impairment, monitored services' total assets decreased approximately $1.1 billion, from $1.9 billion for the year ended December 31, 2001 to $805.0 million for the nine months ended September 30, 2002.

Other

Other includes an approximate 45% interest in ONEOK, investments in international power generation facilities and other investments in the aggregate not material to our business or results of operations. Details concerning EBIT attributable to this segment are as follows:

	Three Months Ended September 30,	
	2002	2001
	(In Thousands)	
Sales	$ —	$ 341
Earnings (losses) before interest and taxes	11,644	20,613

	Nine Months Ended September 30,	
	2002	2001
	(In Thousands)	
Sales	$ 252	$ 1,031
Earnings (losses) before interest and taxes	53,286	11,951

	September 30, 2002	December 31, 2001
	(In Thousands)	
Identifiable assets	$ 810,699	$ 723,289

Three Months Ended September 30, 2002, Compared to Three Months Ended September 30, 2001: Sales shown above are from a wholly owned subsidiary of Westar Industries that was sold in the first quarter of 2002 that provided paging services. EBIT decreased $9.0 million primarily as a result of a decrease in the gain on extinguishment of debt of $11.8 million, from a $11.2 million gain in 2001 to a $0.7 million loss in 2002, which was partially offset by increased investment earnings of $1.2 million and lower operating expenses of $2.2 million.

Nine Months Ended September 30, 2002, Compared to Nine Months Ended September 30, 2001: The timing of the disposition of Westar Industries' subsidiary, as discussed above, is the primary reason sales declined approximately $0.8 million. EBIT increased $41.3 million primarily as a result of increased investment earnings, which increased $35.4 million primarily as a result of the receipt of a one-time payment of approximately $14.2 million related to a partial recovery of an investment and the $11.1 million write down in 2001 of the cost basis of certain equity securities held for investment to their fair value.

WESTAR ENERGY CONSOLIDATED

The following discussion addresses changes in other items affecting net income but not affecting EBIT for the three and nine months ended September 30, 2002 compared to the same period of 2001.

Interest Expense

Three Months Ended September 30, 2002, Compared to Three Months Ended September 30, 2001: Interest expense increased $3.5 million primarily due to increased interest rates on long-term debt resulting from our May 10, 2002 and June 6, 2002 debt financings.

Nine Months Ended September 30, 2002, Compared to Nine Months Ended September 30, 2001: Interest expense increased approximately $3.2 million. During the first quarter of 2002, interest expense decreased

$4.8 million due to lower interest rates and lower outstanding debt at Protection One. This decrease was partially offset by the increase in interest expense as discussed in the above paragraph.

Income Taxes

We have recorded income tax benefits and expenses for the interim periods using the federal statutory rate of 35%. The effective income tax rates set forth below are computed by dividing total income taxes by earnings before income taxes.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2002	2001	2002	2001
Effective income tax expense (benefit)	35%	28%	(61)%	(81)%

Our income tax benefit for the nine months ended September 30, 2002 increased due to the impairment charge recorded in the first quarter of 2002 and the benefit associated with the sale of Protection One's Canadian operations. See Note 3 of the Notes to Consolidated Financial Statements, "Impairment Charge Pursuant to New Accounting Rules" for additional information regarding the impairment charge. Additional information on the sale of Protection One's Canadian operations is included in Note 9 of the Notes to Consolidated Financial Statements, "Discontinued Operations — Sale of Canadian Operations."

Other differences between our effective tax rate and the statutory rate include the benefit of excluding from taxable income, in accordance with IRS rules, the income from corporate-owned life insurance and 70% of the dividends received from ONEOK. In addition, certain expenses for depreciation, compensation, amortization and state income taxes also affect our effective income tax rate.

LIQUIDITY AND CAPITAL RESOURCES

We believe we will have sufficient cash to fund future operations of our business, including the payment of dividends, from a combination of cash on hand, cash flow and borrowings under our revolving credit facility.

We had $150.5 million in cash and cash equivalents at September 30, 2002. We consider cash equivalents to be highly liquid investments with a maturity of three months or less when purchased. We also had $27.9 million of restricted cash classified as a current asset at September 30, 2002. The current asset portion of our restricted cash consists of $15.0 million cash held in escrow as required by certain letters of credit and various other deposits, $10.3 million cash held in trust for interest related to the defeasance of first mortgage bonds and $2.6 million held in a trust account for Protection One's workers' compensation claims. In addition, we had $175.2 million of restricted cash classified as a long-term asset, which consists of $30.7 million cash held in escrow as required by the terms of a pre-paid capacity and transmission agreement, $3.0 million cash used to collateralize letters of credit, $1.4 million to collateralize certain surety bonds and $140.1 million cash held in trust for the defeasance of KGE first mortgage bonds and the payment of related interest.

At September 30, 2002, current maturities of long-term debt were approximately $194.6 million. Current maturities of long-term debt decreased primarily due to the repayment of certain indebtedness with the proceeds of our May 10, 2002 and June 6, 2002 debt refinancings.

On May 10, 2002, we completed offerings for $365 million of our first mortgage bonds and $400 million of our unsecured senior notes, both of which will be due on May 1, 2007. The first mortgage bonds bear interest at an annual rate of 7 7/8% and the unsecured senior notes bear interest at an annual rate of 9 3/4%. Interest on the first mortgage bonds and unsecured senior notes is payable semi-annually on May 1 and November 1 of each year, beginning on November 1, 2002. The net proceeds from these offerings were used to repay outstanding indebtedness of $547 million under our existing secured bank term loan, provide for the repayment of $100 million of our 7.25% first mortgage bonds due August 15, 2002 together with accrued interest, reduce the outstanding balance on our existing secured revolving credit facility and pay fees and expenses of the transactions. In conjunction with the May 10, 2002 financing, we amended our secured revolving credit facility to reduce the total commitment under the facility to $400 million from $500 million and to release another $100 million of our first mortgage bonds from collateral.

On June 6, 2002, we entered into a secured credit agreement providing for a $585 million term loan and a $150 million revolving credit facility, each maturing on June 6, 2005, provided that if we have not refinanced or provided for the payment of our 6.25% senior unsecured notes that are putable and callable on August 15, 2003, or our 6.875% senior unsecured notes due August 1, 2004, at least 60 days prior to either such date, the maturity date is the date 60 days prior to either such date. As of November 6, 2002, $146.4 million principal amount of our 6.25% senior unsecured notes and $278.3 million principal amount of our 6.875% senior unsecured notes were outstanding. All loans under the credit agreement are secured by KGE's first mortgage bonds. The proceeds of the term loan were used to retire an existing $400 million revolving credit facility with an outstanding principal balance of $380 million, to provide for the repayment at maturity of $135 million principal amount of KGE first mortgage bonds due December 15, 2003 together with accrued interest, to repurchase approximately $45 million of our outstanding unsecured notes and to pay customary fees and expenses of the transactions. There were no borrowings under the revolving credit facility at closing or as of November 6, 2002.

On July 25, 2002, we entered into an amendment to the agreement related to our accounts receivable securitization that extended the term for an additional year and eliminated our right to increase from $125 million to $175 million the amount of the accounts receivable we had a right to sell during certain periods. See Note 4 of the Notes to Consolidated Financial Statements in our 2001 Form 10-K for additional information about the accounts receivable securitization.

Under GAAP, we are required to continue reporting as outstanding debt on our consolidated balance sheet the $135 million principal amount of KGE first mortgage bonds due December 15, 2003, until the funds deposited with the trustee are used to retire such bonds at maturity. The cash deposited with the trustee is included in restricted cash on our consolidated balance sheet and can only be used for the purpose of repaying this indebtedness and related interest. The funds deposited to retire the $100 million principal amount of our 7.25% first mortgage bonds due August 15, 2002 were used to retire the bonds at that date.

Call Option

In August 1998, we entered into a call option contract with an investment bank related to the issuance of $400 million of our 6.25% senior unsecured notes that have a final maturity of August 15, 2018 and are putable and callable on August 15, 2003. This call option contract is required to be settled by August 2003 through either a remarketing or refinancing of the senior notes or a cash payment. If settled through a remarketing, the liability will be amortized as a credit to interest expense over the term of the new debt. The investment bank will price the notes to yield a market premium adequate to allow the investment bank to retain proceeds equal to the fair value of the call option at that time. The ultimate value of the call option will be based on the difference between the 10-year United States Treasury rate on August 12, 2003 and 5.44%. If the 10-year United States Treasury rate on August 12, 2003 is less than 5.44%, we may have a liability to the investment bank at that time. At September 30, 2002, our potential liability under this contract was $69.9 million. Based on the current 10-year forward treasury rate on November 12, 2002 of 4.28%, we would potentially be obligated to make a cash payment of approximately $51.0 million to settle the contract. The amount of our liability will increase or decrease approximately $5 million for every 10-basis point change in the 10-year forward treasury rate. We are evaluating whether alternatives are available to reduce or eliminate the amount of the cash payment necessary to settle the call option.

Contractual Obligations and Commercial Commitments

In the course of our business activities, we enter into a variety of contractual obligations and commercial commitments. Some of these result in direct obligations that are reflected in our consolidated balance sheets while others are commitments, some firm and some based on uncertainties, that are not reflected in our underlying consolidated financial statements. The obligations listed below do not include assumptions for on-going needs for which no contractual obligations existed as of September 30, 2002, and represent only amounts that we are currently contractually obligated to meet.

Contractual Cash Obligations

The following table summarizes our contractual cash obligations by payment due date existing at September 30, 2002:

At September 30, 2002:

Contractual Obligations	Total	October 1, 2002 through December 31, 2002	2003	2004	2005 - 2006	Thereafter
			(In Thousands)			
Long-term debt	$ 3,392,179	$ 9,983	$ 326,125	$ 314,495	$ 957,567	$ 1,784,009
Restricted cash deposited with the trustee for defeasance (a)	(135,000)	—	(135,000)	—	—	—
Adjusted long-term debt	$ 3,257,179	$ 9,983	$ 191,125	$ 314,495	$ 957,567	$ 1,784,009
Operating leases	740,425	18,560	64,536	55,874	117,429	484,026
Fossil fuel	2,033,973	23,214	161,530	150,660	241,376	1,457,193
Nuclear fuel	176,141	1,111	22,560	13,480	18,561	120,429
Unconditional purchase obligations	11,953	5,204	4,708	2,030	11	—
Total contractual obligations, including adjusted long-term debt	$ 6,219,671	$ 58,072	$ 444,459	$ 536,539	$ 1,334,944	$ 3,845,657

(a) See Note 2 of the Notes to Consolidated Financial Statements, “Summary of Significant Accounting Policies” for description of funds deposited with trustee for repayment of debt.

Commercial Commitments

The following table summarizes our Commercial Commitments by date of expiration existing at September 30, 2002:

At September 30, 2002:

Commercial Commitments	Total Amounts Committed	October 1, 2002 through December 31, 2002	2003	2004	2005 - 2006	Thereafter
			(In Thousands)			
Lines of credit	$ 157,000	$ 7,000	$ —	$ —	$ 150,000	$ —
Outstanding letters of credit	8,509	1,000	7,509	—	—	—
Total commercial commitments	$ 165,509	$ 8,000	$ 7,509	$ —	$ 150,000	$ —

Credit Ratings

Standard & Poor’s (S&P), Fitch Investors Service (Fitch) and Moody’s Investors Service (Moody’s) are independent credit-rating agencies that rate our debt securities. These ratings indicate the agencies’ assessment of our ability to pay interest and principal on these securities. On April 2, 2002, Moody’s downgraded its ratings on Protection One’s outstanding securities with the outlook remaining negative. On April 18, 2002, Fitch lowered our senior unsecured debt ratings and reaffirmed that all our securities remain on Rating Watch Evolving. On April 29,

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2002, Moody's confirmed our ratings with a negative outlook. On November 5, 2002, S&P placed our ratings on CreditWatch with negative implications.

As of November 6, 2002, ratings with these agencies were as follows:

	Western Resources Mortgage Bond Rating	Western Resources Unsecured Debt	KGE Mortgage Bond Rating	Protection One Senior Unsecured Debt	Protection One Senior Subordinated Unsecured Debt
S&P	BBB-	BB-	BB+	B	CCC+
Fitch	BB+	BB-	BB+	B	CCC+
Moody's	Ba1	Ba2	Ba1	B3	Caa2

Cash Flows from (used in) Operating Activities

Cash provided by operating activities increased $73.9 million to $284.6 million for the nine months ended September 30, 2002, from $210.7 million for the same period of 2001. This increase is attributable to working capital increasing $42.2 million and improvement in net income before non-cash charges.

Cash Flows from (used in) Investing Activities

We spent $109.3 million during the nine months ended September 30, 2002, in comparison to $183.5 million during the same period of 2001, on net additions to property, plant and equipment. During the nine months ended September 30, 2001, we spent $44.3 million for construction of new generating facilities. These major projects were completed during 2001. Investment in customer accounts amounted to $15.4 million during the nine months ended September 30, 2002 and $7.2 million in the same period of 2001.

Proceeds from other investments during the nine months ended September 30, 2002 amounted to $15.6 million primarily attributable to $7.3 million received on the disposition of our portfolio of affordable housing tax credit limited partnerships and a $5.3 million final payment from the sale of Paradigm.

Cash Flows from (used in) Financing Activities

We used cash for financing activities of $140.4 million during the nine months ended September 30, 2002 compared to net cash flows used for financing activities of $21.2 million in the same period of 2001. In 2002, cash flows were used to fund our investment in operations, the retirement or defeasance of long-term debt, the reduction of our short-term debt balance, the payment of dividends on our common stock and the acquisition of treasury stock.

Capital Structure

During the first quarter of 2002, we recorded an impairment of our goodwill and customer accounts as more fully described above in Note 3 of the Notes to Consolidated Financial Statements, "Impairment Charge Pursuant to New Accounting Rules," which affected our capital structure. Our capital structure at September 30, 2002 and December 31, 2001 was as follows:

	September 30, 2002	December 31, 2001
Shareholders' equity	23%	36%
Preferred stock	1	1
Western Resources obligated mandatorily redeemable preferred securities of subsidiary trust holding solely company subordinated debentures	5	4
Long-term debt, net	71	59
Total	100%	100%

Debt and Equity Repurchase Plans

Westar Industries and Protection One may, from time to time, purchase Protection One's debt and equity securities in the open market or through negotiated transactions. We, Westar Industries and Protection One may also purchase our debt and equity securities in the open market or through negotiated transactions. The timing and terms of purchases and the amount of debt or equity actually purchased will be determined based on market conditions and other factors.

OTHER INFORMATION

Electric Utility

Competition and Deregulation

As reported in our 2001 Form 10-K, the Southwest Power Pool (SPP) and the Midwest Independent System Operator (MISO) agreed in October 2001 to consolidate and form a regional transmission organization (RTO). On May 30, 2002, FERC approved the planned merger. On November 4, 2002, MISO and SPP filed a revised consolidated open-access transmission tariff as required by the merger agreement. If approved by the FERC, the tariff will eliminate rate "pancaking" - the need to pay multiple rates to cross service territories - for transactions that occur between MISO and SPP customers.

The combined MISO/SPP will operate our transmission system as part of an interconnected transmission system encompassing over 120,000 MW of generation capacity located in 20 states. MISO collects revenues attributable to the use of each member's transmission system, and each member is able to transmit power purchased, generated for sale or bought for resale in the wholesale market, throughout the entire MISO system. For additional information, see "Management's Discussion and Analysis of Financial Condition and Results of Operations — Other Information — Electric Utility — Competition and Deregulation," in our 2001 Form 10-K.

Nuclear Decommissioning

Decommissioning is a nuclear industry term for the permanent shutdown of a nuclear power plant. The Nuclear Regulatory Commission (NRC) requires companies with nuclear plants to prepare formal financial plans to fund decommissioning. These plans are designed so that funds required for decommissioning will be accumulated during the estimated remaining life of the related nuclear power plant.

Decommissioning costs are currently being charged to operating expense in accordance with the July 25, 2001 KCC rate order. Electric rates charged to customers provide for recovery of these decommissioning costs over the life of Wolf Creek as determined by the KCC through 2045. The NRC requires that funds to meet its decommissioning funding assurance requirement be in our decommissioning fund by the time our license expires in 2025. We are currently reviewing how to resolve this discrepancy and cannot predict the outcome at this time. However, our results of operations would be materially adversely affected should we not be able to recover the full amount of the funding requirement.

Potential Sale of Assets

On October 14, 2002, we announced that we have reached an agreement with Midwest Energy, Inc. (Midwest Energy). We plan to sell to Midwest Energy a portion of our transmission and distribution assets and rights to provide service to customers in an area of central Kansas. The sale will affect about 10,000 customers over 895 square miles. The area, which includes 42 towns, is on the west edge of our service territory and is largely surrounded by Midwest Energy's existing territory. The proposed sale is contingent upon approval by the KCC and FERC. Closing of the transaction is expected to occur in the first quarter of 2003.

ONEOK Shared Services

We and ONEOK are parties to a shared services agreement pursuant to which we provide certain customer service functions to each other, such as customer billing and call center operations. On November 5, 2002, ONEOK gave notice of termination of the agreement effective December 2003. We are evaluating the impact of the termination of this agreement, which we expect will cause our costs to provide certain services to increase.

Monitored Services — Attrition

Customer attrition has a direct impact on the results of our monitored security operations since it affects its revenues, amortization expense and cash flow. See "— Operating Results — Monitored Services" and our 2001 Form 10-K for additional information regarding customer attrition.

Customer attrition for the three months ended September 30, 2002 and 2001 is summarized below.

	Customer Account Attrition			
	September 30, 2002		September 30, 2001	
	Annualized Third Quarter	Trailing Twelve Month	Annualized Third Quarter	Trailing Twelve Month
Protection One (a)	10.2%	12.6%	16.2%	14.4%
Protection One Europe (b)	4.9%	10.9%	8.7%	9.3%

(a) Excludes Canadian operations, which were sold in July 2002.
(b) United Kingdom operations were disposed of in June 2001.

Market Risk Disclosure

We are exposed to market risk, including market changes, changes in commodity prices, equity instrument investment prices, interest rates and changes in the 10-year United States Treasury rate. For additional information on our market risk, see our 2001 Form 10-K.

In August 1998, we entered into a call option with an investment bank related to the issuance of $400 million of our 6.25% senior unsecured notes that have a final maturity of August 15, 2018 and are putable and callable on August 15, 2003. This call option contract is required to be settled by August 2003 through either a remarketing or refinancing of the senior notes or a cash payment. If settled through a remarketing, the liability will be amortized as a credit to interest expense over the term of the new debt. The investment bank will price the notes to yield a market premium adequate to allow the investment bank to retain proceeds equal to the fair value of the call option at that time. The ultimate value of the call option will be based on the difference between the 10-year United States Treasury rate on August 12, 2003 and 5.44%. If the 10-year United States Treasury rate on August 12, 2003 is less than 5.44%, we may have a liability to the investment bank at that time. At September 30, 2002, our potential liability under this contract was $69.9 million. Based on the current 10-year forward treasury rate on November 12, 2002 of 4.28%, we would potentially be obligated to make a cash payment of approximately $51.0 million to settle the contract. The amount of our liability will increase or decrease approximately $5 million for every 10-basis point change in the 10-year forward treasury rate. We are evaluating whether alternatives are available to reduce or eliminate the amount of the cash payment necessary to settle the call option.

In addition, under SFAS No. 133, we are required to mark to market changes in the anticipated amount of the liability related to the portion of the $400 million in notes that have been retired so that our consolidated balance sheet reflects the current fair value of the free standing portion of the call option contract. Related to the call option, we recorded a non-cash mark-to-market charge of $15.5 million, net of tax of $10.2 million, for the three months ended September 30, 2002 and, for the nine months ended September 30, 2002, we recorded $16.3 million, net of tax of $10.7 million. We cannot predict changes in the market value of this option and therefore cannot estimate amounts of future mark-to-market non-cash charges associated with the call option or the impact on our earnings, which could be material.

Hedging Activity

During the third quarter of 2001, we entered into hedging relationships to manage commodity price risk associated with future natural gas purchases in order to protect us and our customers from adverse price fluctuations in the natural gas market. Initially, we entered into futures and swap contracts with terms extending through July 2004 to hedge price risk for a portion of our anticipated natural gas fuel requirements for our generation facilities. We have designated these hedging relationships as cash flow hedges in accordance with SFAS No. 133. Through the third quarter of 2002, we have burned 20,000,000 MMBtu. In September 2002, we determined that we had

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overhedged approximately 12,000,000 MMBtu for the remaining period of the hedge and we recognized a gain in earnings of $4.0 million as a result of the discontinuance of this portion of the cash flow hedge. We are currently forecasting that we need a notional volume of 7,000,000 MMBtu for the remainder of the hedged period of October 2002 through July 2004.

Effective October 4, 2001, we entered into a $500 million interest rate swap agreement with a term of two years. At that time, the effect of the swap agreement was to fix the annual interest rate on the term loan at 6.18%. In June 2002, we refinanced the term loan associated with this swap, which increased the effective rate of the swap to 6.43%. At September 30, 2002, the variable rate in effect for the term loan was 4.82%. Changes in the fair value of this cash flow hedge are due to fluctuations in the variable interest rate.

The following tables summarize the effects our natural gas hedges and our interest rate swap had on our financial position and results of operations for the three and nine months ended September 30, 2002:

	Natural Gas Hedges (a)	Interest Rate Swap	Total Cash Flow Hedges
		(Dollars in Thousands)	
Three Months Ended September 30, 2002:			
Fair value of derivative instruments:			
Current	$ 1,056	$ —	$ 1,056
Long-term	806	(10,009)	(9,203)
Total	$ 1,862	$ (10,009)	$ (8,147)
Change in amounts in accumulated other comprehensive income	$ (2,306)	$ (3,460)	$ (5,766)
Adjustment for losses included in net income	(166)	—	(166)
Change in estimated income tax expense (benefit)	(652)	1,376	724
Net Comprehensive Gain	$ (3,124)	$ (2,084)	$ (5,208)
Anticipated reclassifications to earnings in the next 12 months (b)	$ 1,056	$ —	$ 1,056
Duration of hedge designation as of September 30, 2002	22 months	13 months	—

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	Natural Gas Hedges (a)	Interest Rate Swap	Total Cash Flow Hedges
		(Dollars in Thousands)	
Nine Months Ended September 30, 2002:			
Fair value of derivative instruments:			
Current	$ 1,056	$ —	$ 1,056
Long-term	806	(10,009)	(9,203)
Total	$ 1,862	$ (10,009)	$ (8,147)
Change in amounts in accumulated other comprehensive income	$ 21,945	$ (7,352)	$ 14,593
Adjustment for losses included in net income	1,992	—	1,992
Change in estimated income tax expense (benefit)	(11,156)	2,924	(8,232)
Net Comprehensive Gain	$ 12,781	$ (4,428)	$ 8,353
Anticipated reclassifications to earnings in the next 12 months (b)	$ 1,056	$ —	$ 1,056
Duration of hedge designation as of September 30, 2002	22 months	13 months	—

(a) Natural gas hedge assets and liabilities are classified in the balance sheet as energy trading contracts. Due to the volatility of gas commodity prices, it is probable that gas prices will increase and decrease over the remaining 22 months that these relationships are in place.

(b) The actual amounts that will be reclassified to earnings could vary materially from this estimated amount due to changes in market conditions.

Fair Value of Energy Trading Contracts

The tables below show the fair value of energy trading contracts outstanding for the nine months ended September 30, 2002, their sources and maturity periods:

	Fair Value of Contracts
	(In Thousands)
Net fair value of contracts outstanding at the beginning of the period	$ 2,309
Less contracts realized or otherwise settled during the period	14,670
Fair value of new contracts entered into during the period	18,852
Fair value of contracts outstanding at the end of the period	$ 6,491

These contracts were valued through market exchanges and, where necessary, broker quotes and industry publications. The sources of the fair values of the financial instruments related to these contracts are summarized in the following table:

	Fair Value of Contracts at End of Period				
Source of Fair Value	Total Fair Value	Maturity Less Than 1 Year	Maturity 1-3 Years	Maturity 4-5 Years	Maturity in Excess of 5 Years
			(In Thousands)		
Prices actively quoted (futures)	$ (114)	$ (3,525)	$ 3,411	$ —	$ —
Prices provided by other external sources (swaps and forwards)	11,663	6,126	5,537	—	—
Prices based on the Black Option Pricing model (options and other) (a)	(5,058)	(4,582)	(476)	—	—
Total fair value of contracts outstanding	$ 6,491	$ (1,981)	$ 8,472	$ —	$ —

(a) The Black Option Pricing model is a variant of the Black-Scholes Option Pricing model.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Information relating to the market risk disclosure is set forth in “Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations — Other Information — Market Risk Disclosure,” which is incorporated herein by reference.

ITEM 4. CONTROLS AND PROCEDURES

Within the 90-day period prior to the date of this report, an evaluation was carried out, under the supervision and with the participation of our management, including the members of the committee which is performing similar and equivalent functions to those performed by a principal or chief executive officer and our Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures pursuant to Rule 13a-15 of the Securities Exchange Act of 1934. Based upon that evaluation, the members of the Committee and the Chief Financial Officer concluded that our disclosure controls and procedures were effective, in all material respects, with respect to the recordings, processing, summarizing and reporting, within the time periods specified in the SEC’s rules and forms, of information required to be disclosed by us in the reports that we file or submit under the Exchange Act.

There have been no significant changes in our internal controls or in other factors that could significantly affect internal controls subsequent to the date of the evaluation described above.

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WESTAR ENERGY, INC.

Part II. Other Information

ITEM 1. LEGAL PROCEEDINGS

Information regarding legal proceedings is set forth in Note 14 in the Notes to Consolidated Financial Statements included in Part 1, Item 1 of this report. The disclosure set forth in Note 14, "Legal Proceedings" is incorporated herein by reference.

ITEM 2. CHANGES IN SECURITIES AND USE OF PROCEEDS

None

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

None

ITEM 5. OTHER INFORMATION

None

ITEM 6. EXHIBITS AND REPORTS ON FORM 8-K

(a) Exhibits:

10.1 - Employment Agreement dated September 23, 2002 between Westar Energy, Inc. and David C. Wittig.

10.2 - Employment Agreement dated September 23, 2002 between Westar Energy, Inc. and Douglas T. Lake.

99.1 - Certification pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

99.2 - Kansas Corporation Commission Order dated November 8, 2002.

(b) Reports on Form 8-K filed during the three months ended September 30, 2002:

Form 8-K filed August 14, 2002	-	Statement Under Oath of Principal Executive Officer and Principal Financial Officer Regarding Facts and Circumstances Relating to Exchange Act Filings.
Form 8-K filed August 29, 2002	-	Announcing that ONEOK, Inc. declined to purchase Westar Industries' investment in ONEOK and Westar Industries' intentions to sell its investment to a third party.
Form 8-K filed September 26, 2002	-	Announcing an expected charge to be included in third quarter 2002 results resulting from marking to market the amount of a liability arising from a call option related to our 6.25 percent senior unsecured notes issued in August 1998.
Form 8-K filed September 27, 2002	-	Announcing that on September 17, 2002 we were served with a federal grand jury subpoena by the United States Attorney's Office concerning the use of aircraft leased by subsidiaries and inquiries relating to annual shareholder meetings. Our board of directors has appointed a Special Committee to investigate matters relating to the grand jury investigation.

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SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

WESTAR ENERGY, INC.

Date:	November 14, 2002	By:	/s/ PAUL R. GEIST
			Paul R. Geist, **Senior Vice President,** **Chief Financial Officer and Treasurer**

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**CERTIFICATION PURSUANT TO
RULE 13a-14 UNDER THE
SECURITIES EXCHANGE ACT OF 1934**

The undersigned, as a member of a committee appointed by the Board of Directors of Westar Energy, Inc. performing similar or equivalent functions to those performed by a principal executive officer or chief executive officer of the company, certifies that:

1. I have reviewed this quarterly report for the period ended September 30, 2002 on Form 10-Q of Westar Energy, Inc.;

2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;

3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this quarterly report;

4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for the registrant and have:

   a. designed such disclosure controls and procedures to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;

   b. evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the "Evaluation Date"); and

   c. presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;

5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):

   a. all significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and

   b. any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls; and

6. The registrant's other certifying officers and I have indicated in this quarterly report whether there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date:	November 14, 2002	By:	/S/ DOUGLAS T. LAKE
			Douglas T. Lake Executive Vice President and Chief Strategic Officer As a Member of the Committee

CERTIFICATION PURSUANT TO
RULE 13a-14 UNDER THE
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The undersigned, as a member of a committee appointed by the Board of Directors of Westar Energy, Inc. performing similar or equivalent functions to those performed by a principal executive officer or chief executive officer of the company, certifies that:

1. I have reviewed this quarterly report for the period ended September 30, 2002 on Form 10-Q of Westar Energy, Inc.;

2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;

3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this quarterly report;

4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for the registrant and have:

   a. designed such disclosure controls and procedures to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;

   b. evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the "Evaluation Date"); and

   c. presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;

5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):

   a. all significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and

   b. any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls; and

6. The registrant's other certifying officers and I have indicated in this quarterly report whether there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date:	November 14, 2002	By:	/S/ PAUL R. GEIST

Paul R. Geist
Senior Vice President,
Chief Financial Officer and Treasurer
As a Member of the Committee

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CERTIFICATION PURSUANT TO
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1. I have reviewed this quarterly report for the period ended September 30, 2002 on Form 10-Q of Westar Energy, Inc.;
2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;
3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this quarterly report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for the registrant and have:
   a. designed such disclosure controls and procedures to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;
   b. evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the "Evaluation Date"); and
   c. presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
   a. all significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and
   b. any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls; and
6. The registrant's other certifying officers and I have indicated in this quarterly report whether there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date:	November 14, 2002	By:	/S/ LARRY D. IRICK
			Larry D. Irick Vice President, Corporate Secretary As a Member of the Committee

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1. I have reviewed this quarterly report for the period ended September 30, 2002 on Form 10-Q of Westar Energy, Inc.;
2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;
3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this quarterly report;
4. The registrant’s other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for the registrant and have:
    a. designed such disclosure controls and procedures to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;
    b. evaluated the effectiveness of the registrant’s disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the “Evaluation Date”); and
    c. presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;
5. The registrant’s other certifying officers and I have disclosed, based on our most recent evaluation, to the registrant’s auditors and the audit committee of registrant’s board of directors (or persons performing the equivalent functions):
    a. all significant deficiencies in the design or operation of internal controls which could adversely affect the registrant’s ability to record, process, summarize and report financial data and have identified for the registrant’s auditors any material weaknesses in internal controls; and
    b. any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant’s internal controls; and
6. The registrant’s other certifying officers and I have indicated in this quarterly report whether there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date:	November 14, 2002	By:	/S/ RICHARD A. DIXON
			Richard A. Dixon Senior Vice President, Customer Operations As a Member of the Committee

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CERTIFICATION PURSUANT TO
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1. I have reviewed this quarterly report for the period ended September 30, 2002 on Form 10-Q of Westar Energy, Inc.;

2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;

3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this quarterly report;

4. The registrant’s other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for the registrant and have:

   a. designed such disclosure controls and procedures to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;

   b. evaluated the effectiveness of the registrant’s disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the “Evaluation Date”); and

   c. presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;

5. The registrant’s other certifying officers and I have disclosed, based on our most recent evaluation, to the registrant’s auditors and the audit committee of registrant’s board of directors (or persons performing the equivalent functions):

   a. all significant deficiencies in the design or operation of internal controls which could adversely affect the registrant’s ability to record, process, summarize and report financial data and have identified for the registrant’s auditors any material weaknesses in internal controls; and

   b. any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant’s internal controls; and

6. The registrant’s other certifying officers and I have indicated in this quarterly report whether there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date:	November 14, 2002	By:	/S/ DOUGLAS R. STERBENZ

Douglas R. Sterbenz
Senior Vice President, Generation and Marketing
As a Member of the Committee

CERTIFICATION PURSUANT TO
RULE 13a-14 UNDER THE
SECURITIES EXCHANGE ACT OF 1934

The undersigned, as a member of a committee appointed by the Board of Directors of Westar Energy, Inc. performing similar or equivalent functions to those performed by a principal executive officer or chief executive officer of the company, certifies that:

1. I have reviewed this quarterly report for the period ended September 30, 2002 on Form 10-Q of Westar Energy, Inc.;

2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;

3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this quarterly report;

4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for the registrant and have:

   a. designed such disclosure controls and procedures to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;

   b. evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the "Evaluation Date"); and

   c. presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;

5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):

   a. all significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and

   b. any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls; and

6. The registrant's other certifying officers and I have indicated in this quarterly report whether there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date:	November 14, 2002	By:	/S/ KELLY B. HARRISON
			Kelly B. Harrison Vice President, Regulatory As a Member of the Committee

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CERTIFICATION PURSUANT TO
RULE 13a-14 UNDER THE
SECURITIES EXCHANGE ACT OF 1934

The undersigned, as a member of a committee appointed by the Board of Directors of Westar Energy, Inc. performing similar or equivalent functions to those performed by a principal executive officer or chief executive officer of the company, certifies that:

1. I have reviewed this quarterly report for the period ended September 30, 2002 on Form 10-Q of Westar Energy, Inc.;

2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;

3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this quarterly report;

4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for the registrant and have:

   a. designed such disclosure controls and procedures to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;

   b. evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the "Evaluation Date"); and

   c. presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;

5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):

   a. all significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and

   b. any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls; and

6. The registrant's other certifying officers and I have indicated in this quarterly report whether there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date:	November 14, 2002	By:	/S/ BRUCE A. AKIN

Bruce A. Akin
Vice President, Business Services
As a Member of the Committee

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CERTIFICATION PURSUANT TO
RULE 13a-14 UNDER THE
SECURITIES EXCHANGE ACT OF 1934

I, Paul R. Geist, certify that:

1. I have reviewed this quarterly report for the period ended September 30, 2002 on Form 10-Q of Westar Energy, Inc.;

2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;

3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this quarterly report;

4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for the registrant and have:

   a. designed such disclosure controls and procedures to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;

   b. evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the "Evaluation Date"); and

   c. presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;

5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):

   a. all significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and

   b. any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls; and

6. The registrant's other certifying officers and I have indicated in this quarterly report whether there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date:	November 14, 2002	By:	/s/ PAUL R. GEIST
			Paul R. Geist, **Senior Vice President,** **Chief Financial Officer and Treasurer**

EMPLOYMENT AGREEMENT

THIS AGREEMENT is entered into as of the 23rd day of September, 2002 by and between **Westar Energy, Inc.**, a Kansas corporation (the “Company”), and **David C. Wittig** (“Executive”). This Agreement amends and restates in its entirety the Employment Agreement between the Company (then named Western Resources, Inc.) and Executive, dated September 19, 2000, as amended.

W I T N E S S E T H

WHEREAS, the Company considers the establishment and maintenance of a sound and vital management to be essential to protecting and enhancing the best interests of the Company and its stockholders; and

WHEREAS, the Board (as defined in Section 1) has determined that it is in the best interests of the Company and its stockholders to secure Executive’s continued services; and

WHEREAS, the Company also recognizes that the possibility of a change in control could arise which may result in the distraction of management to the detriment of the Company and its shareholders. It is important that Executive be able to advise the Board whether a proposed change in control would be in the best interests of the Company and its shareholders and to take action regarding such proposal as the Board directs, without being influenced by the uncertainties of Executive’s own situation.

WHEREAS, the Board has authorized the Company to enter into this Agreement.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants and agreements herein contained, the Company and Executive hereby agree as follows:

1. Definitions. As used in this Agreement, the following terms shall have the respective meanings set forth below:

(a) “Adjusted Base Salary” shall mean ninety percent (90%) of the annual salary job value for the pay grade of Executive and other remuneration for current services (but excluding all bonuses, stock based awards and other incentive compensation) paid to or for the benefit of Executive.

(b) “Base Salary” shall mean all salary, cash compensation and other remuneration for current services (but excluding all bonuses, stock based awards and other incentive compensation) paid to, for the benefit of or deferred by Executive, together (without duplication) with the compensation that would have been payable in cash to Executive if such compensation had not been converted into Restricted Share Units pursuant to the Western Resources, Inc. Executive Stock for Compensation Program.

(c) “Board” means the Board of Directors of the Company.

(d) “Bonus Amount” means the greater of (a) the highest annual incentive bonus payable to or for the benefit of or deferred by Executive from the Company (or its affiliates) for the last three (3) completed fiscal years of the Company immediately preceding Executive’s Date of Termination (annualized in the event Executive was not employed by the Company (or its affiliates) for the whole of any such fiscal year), or (b) the Executive's target bonus amount for the year of termination of employment.

(e) "Cause" means (i) the willful and continued failure of Executive to perform substantially his duties with the Company (other than any such failure resulting from Executive's incapacity due to physical or mental illness or any such failure subsequent to Executive being delivered a Notice of Termination without Cause by the Company or delivering a Notice of Termination for Good Reason to the Company) after a written demand for substantial performance is delivered to Executive by the Chairman of the Board which specifically identifies the manner in which Executive has not substantially performed Executive's duties, or (ii) the willful engaging by Executive in illegal conduct which is demonstrably and materially injurious to the Company. For purposes of this paragraph (e), no act or failure to act by Executive shall be considered "willful" unless done or omitted to be done by Executive in bad faith and without reasonable belief that Executive's action or omission was in, or not opposed to, the best interests of the Company. Any act, or failure to act, based upon authority given pursuant to a resolution duly adopted by the Board, based upon the advice of counsel for the Company or upon the instructions of the Company's chief executive officer or another senior officer of the Company shall be conclusively presumed to be done, or omitted to be done, by Executive in good faith and in the best interests of the Company. Executive's attention to matters not directly related to the business of the Company shall not provide a basis for termination for Cause if the Company has not objected to such activity in writing. Cause shall not exist unless and until the Company has delivered to Executive a copy of a resolution duly adopted by three-quarters (3/4) of the entire Board (excluding any Board member who is an employee of the Company) at a meeting of the Board called and held for such purpose (after reasonable notice to Executive and an opportunity for Executive, together with counsel, to be heard before the Board), finding that in the good faith opinion of the Board an event set forth in clauses (i) or (ii) has occurred and specifying the particulars thereof in detail.

(f) "Change in Control" means the occurrence of any one of the following events:

(i) individuals who, on September 23, 2002, constitute the Board (the "Incumbent Directors") cease for any reason to constitute at least a majority of the Board, provided that any person becoming a director subsequent to September 23, 2002, whose election or nomination for election was approved by a vote of at least three-fourths of the Incumbent Directors then on the Board (either by a specific vote or by approval of the proxy statement of the Company in which such person is named as a nominee for director, without written objection to such nomination) shall be an Incumbent Director; provided, however, that no individual initially elected or nominated as a director of the Company as a result of an actual or threatened election contest with respect to directors or as a result of any other actual or threatened solicitation of proxies or consents, by or on behalf of any person other than the Board shall be deemed to be an Incumbent Director;

(ii) any "person" (as such term is defined in Section 3(a)(9) of the Securities Exchange Act of 1934 (the "Exchange Act") and as used in Sections 13(d)(3) and 14(d)(2) of the Exchange Act) is or becomes a "beneficial owner" (as defined in Rule 13d-3 under the

Exchange Act), directly or indirectly, of securities of the Company representing 20% or more of the combined voting power of the Company's then outstanding securities eligible to vote for the election of the Board (the "Company Voting Securities"); provided, however, that the event described in this paragraph (ii) shall not be deemed to be a Change in Control by virtue of any of the following acquisitions: (A) by the Company or any Subsidiary, (B) by any employee benefit plan (or related trust) sponsored or maintained by the Company or any Subsidiary, (C) by any underwriter temporarily holding securities pursuant to an offering of such securities, (D) pursuant to a Non-Qualifying Transaction (as defined in paragraph (iii)), (E) pursuant to any acquisition by Executive or any group of persons including Executive (or any entity controlled by Executive or any group of persons including Executive);

(iii) the consummation of a merger, consolidation,. statutory share exchange or similar form of corporate transaction involving the Company or any of its Subsidiaries (a "Business Combination"), unless immediately following such Business Combination: (A) more than 60% of the total voting power of (x) the corporation resulting from such Business Combination (the "Surviving Corporation"), or (y) if applicable, the ultimate parent corporation that directly or indirectly has beneficial ownership of 100% of the voting securities eligible to elect directors of the Surviving Corporation (the "Parent Corporation"), is represented by Company Voting Securities that were outstanding immediately prior to such Business Combination (or, if applicable, is represented by shares into which such Company Voting Securities were converted pursuant to such Business Combination), and such voting power among the holders thereof is in substantially the same proportion as the voting power of such Company Voting Securities among the holders thereof immediately prior to the Business Combination, (B) no person (other than any employee benefit plan (or related trust) sponsored or maintained by the Surviving Corporation or the Parent Corporation) is or becomes the beneficial owner, directly or indirectly, of 20% or more of the total voting power of the outstanding voting securities eligible to elect directors of the Parent Corporation (or, if there is no Parent Corporation, the Surviving Corporation) and (C) at least a majority of the members of the board of directors of the Parent Corporation (or, if there is no Parent Corporation, the Surviving Corporation) following the consummation of the Business Combination were Incumbent Directors at the time of the Board's approval of the execution of the initial agreement providing for such Business Combination (any Business Combination which satisfies all of the criteria specified in (A), (B) and (C) above shall be deemed to be a "Non-Qualifying Transaction"); or

(iv) the stockholders of the Company approve a plan of complete liquidation or dissolution of the Company or a sale of all or substantially all of the Company's assets other than the Company's interests in Protection One, Inc. or ONEOK, Inc.

(g) "Date of Termination" means (i) if Executive's employment is to be terminated for Disability, 30 days after Notice of Termination is given (provided that Executive shall not have returned to the performance of Executive's duties on a full-time basis during such 30 day period), (ii) if Executive's employment is to be terminated by the Company for Cause or by Executive for Good Reason, the date specified in the Notice of Termination, (iii) if Executive's employment is to be terminated by the Company for any reason other than Cause, the date specified in the Notice of Termination, which shall be 90 days after the Notice of Termination is given, unless an earlier date has been expressly agreed to by Executive in writing, (iv) if Executive's employment terminates by reason of death, the date of death of Executive; or (v) if Executive's employment is terminated by Executive other than for Good Reason, the date specified in Executive's Notice of Termination, but not more than 30 days after the Notice of Termination is given, unless expressly agreed to by the Company in writing.

(h) "Disability" means termination of Executive's employment by the Company due to Executive's absence from Executive's duties with the Company on a full-time basis for at least one hundred eighty (180) consecutive days as a result of Executive's incapacity due to physical or mental illness, unless within 30 days after Notice of Termination is given to Executive following such absence Executive shall have returned to the full time performance of Executive's duties.

(i) "Good Reason" shall mean termination based on any of the following events:

(i) (A) any change in the duties or responsibilities (including reporting responsibilities) of Executive that is inconsistent in any material and adverse respect with Executive's position(s), duties, responsibilities or status with the Company (including any adverse diminution of such duties or responsibilities) or (B) the failure to reappoint or reelect Executive to any position held by Executive without Executive's consent; provided, however, that Good Reason shall not be deemed to occur upon a change in duties or responsibilities (other than reporting responsibilities) that is solely and directly a result of the Company no longer being a publicly traded entity and does not involve any other event set forth in this paragraph;

(ii) a reduction by the Company in Executive's Base Salary, annual target bonus opportunity or targeted long-term incentive value (including any material and adverse change in the formula for such annual bonus target or long-term incentive target) as in effect immediately prior to the date hereof or as the same may be increased from time to time thereafter;

(iii) any requirement of the Company that Executive (A) be required to relocate more than 100 miles from Executive's present place of employment or (B) travel on Company business to an extent substantially greater than the travel obligations of Executive immediately prior to the date hereof;

(iv) the failure of the Company to (A) continue in effect any employee benefit plan, welfare benefit plan or fringe benefit plan in which Executive is participating immediately prior to the date hereof or, if more favorable, which may be available from time to time hereafter to Executive or other executives of the Company, or the taking of any action by the Company which would materially and adversely affect Executive's participation in or reduce Executive's benefits under any such plan, unless Executive is permitted to participate in other plans providing Executive with substantially equivalent benefits (at no greater cost to Executive with respect to welfare benefit plans), or (B) provide Executive with paid vacation and sick leave in accordance with the most favorable policies of the Company as in effect for Executive immediately prior to the date hereof or, if more favorable, as may be available for Executive or other executives of the Company after the date hereof; provided however, that prior to a Change in Control, changes in any such plans which constitute in the aggregate less than 10% of Executive's aggregate benefits under such plans and which are applied to all employees of the Company shall not constitute "Good Reason";

(v) any refusal by the Company to permit Executive to engage in activities not directly related to the business of the Company which Executive was, or other executives of the Company are, permitted to engage in;

(vi) any purported termination of Executive's employment which is not effectuated pursuant to Section 17(b) (and which will not constitute a termination hereunder);

(vii) the failure of the Company to obtain the assumption (and, if applicable, guarantee) agreement contemplated in Section 16(b); or

(viii) the Company's termination of this Agreement or the failure of the Company to renew this Agreement as provided in Section 4 hereof.

For purposes of this Agreement, any good faith determination of Good Reason by Executive shall be conclusive, provided however, that an isolated, insubstantial and inadvertent action taken in good faith and which is remedied by the Company within ten (10) days after receipt of notice thereof given by Executive shall not constitute Good Reason. Executive's right to terminate employment for Good Reason shall not be affected by Executive's incapacities due to mental or physical illness and Executive's continued employment shall not constitute consent to, or a waiver of rights with respect to, any event or condition constituting Good Reason; provided, however, that Executive must provide notice of termination of employment within one hundred eighty (180) days following Executive's knowledge of an event constituting Good Reason or such event shall not constitute Good Reason under this Agreement.

(j) "Notice of Termination" means a written notice of termination of employment given by one party to the other party pursuant to Section 17(b).

(k) "Qualifying Termination" means a termination of Executive's employment (i) by the Company other than for Cause; (ii) by Executive for Good Reason; or (iii) by Executive during the 90 day period after a Change in Control. Termination of Executive's employment on account of death, Disability or Retirement shall not be treated as a Qualifying Termination. In addition, in the event that Executive (i) is offered employment with a publicly traded subsidiary of the Company, (ii) accepts such offer, (iii) terminates employment with the Company, and (iv) such publicly traded subsidiary does not provide Executive the benefits described in this Agreement, Executive shall be deemed to have terminated employment with the Company pursuant to a Qualifying Termination upon commencing such employment with the subsidiary and shall be entitled to the benefits described in this Agreement payable by reason of a Qualifying Termination.

(l) "Retirement" means Executive's termination on or after Executive's normal retirement date under the terms of the Westar Energy, Inc. Retirement Plan, as in effect immediately prior to Executive's termination or a Change in Control, whichever is earlier, or in accordance with any retirement arrangement established with respect to Executive with Executive's written consent.

(m) "Subsidiary" means any corporation or other entity in which the Company has a direct or indirect ownership interest of 50% or more of the total combined voting power of the then outstanding securities or interests of such corporation or other entity entitled to vote generally in the election of directors or in which the Company has the right to receive 50% or more of the distribution of profits or 50% of the assets upon liquidation or dissolution.

2. Employment and Duties.

(a) Term of Employment. The Company agrees to continue to employ Executive, and Executive agrees to remain in employment of the Company, in accordance with the terms and provisions of this Agreement, for the Term of this Agreement, unless such employment is sooner terminated by the Company or Executive.

(b) Duties. During the term of Executive's employment under this Agreement, Executive shall serve as Chief Executive Officer of the Company. Executive shall devote Executive's full business time and attention to the affairs of the Company and his duties as its Chief Executive Officer. Executive shall have such duties as are appropriate to Executive's position as Chief Executive Officer, and shall have such authority as required to enable Executive to perform these duties. Consistent with the foregoing, Executive shall comply with all reasonable instructions of the Board of Directors of the Company. Executive shall be based at the headquarters of the Company in Topeka, Kansas and Executive's services shall be rendered there except insofar as travel may be involved in connection with Executive's regular duties. Executive shall report directly to the Board of Directors.

3. Obligation of Executive. In the event of a tender or exchange offer, proxy contest, or the execution of any agreement which, if consummated, would constitute a Change in Control, Executive agrees not to voluntarily leave the employ of the Company, other than as a result of Disability, Retirement or an event which would constitute Good Reason, until the Change in Control occurs or, if earlier, such tender or exchange offer, proxy contest, or agreement is terminated or abandoned.

4. Term of Agreement. This Agreement shall continue for a period of three (3) years from the date hereof provided that on each anniversary of the Agreement, the term shall automatically be extended for one year, unless at least 90 days prior to such date, the Company or Executive shall have given notice to cancel this Agreement at the end of its then term.

5. Salary and Benefits.

(a) Salary. The Company shall pay Executive an annual salary at an initial rate equal to Executive's current Base Salary which shall be reviewed annually by the Human Resources Committee of the Board for the purpose of considering increases thereof. Executive's salary shall be paid in accordance with the standard practices for other senior corporate executives of the Company.

(b) Bonuses. Executive shall be eligible to receive annually or otherwise any bonus awards, whether payable in cash, shares of common stock of the Company or otherwise, which the Company, the Human Resources Committee of the Board or such other authorized committee of the Board determines to award or grant.

(c) Benefit Programs. Executive shall receive such benefits and awards, including without limitation stock options and restricted share unit awards, as the Human Resources committee of the Board shall determine and shall be eligible to participate in all employee benefit plans and programs of the Company from time to time in effect for the benefit of senior executives of the Company, including, but not limited to, pension and other retirement plans, 401(k) plans, group life insurance, hospitalization and surgical and major medical coverages, sick leave, salary continuation arrangements, vacations and holidays, long-term disability, and such other benefits as are or may be made available from time to time to senior executives of the Company.

(d) Business Expenses and Perquisites. Executive shall be reimbursed for all reasonable expenses incurred by Executive in connection with the conduct of the business of the Company, provided Executive properly accounts therefor in accordance with the Company's policies. Executive shall also be entitled to such other perquisites as are customary for senior executives of the Company.

(e) Office and Services Furnished. The company shall furnish Executive with office space, secretarial assistance and such other facilities and services as shall be suitable to Executive's position and adequate for the performance of Executive's duties hereunder.

6. Payments Upon Termination of Employment.

(a) Qualifying Termination. If during the Term of this Agreement the employment of Executive shall terminate pursuant to a Qualifying Termination, then the Company shall provide to Executive:

(i) within 30 days following the Date of Termination a lump-sum cash amount equal to the sum of (A) Executive's Base Salary through the Date of Termination and any bonus amounts which have become payable to the extent not theretofore paid or deferred, (B) a pro rata portion of Executive's annual bonus for the fiscal year in which Executive's Date of Termination occurs in an amount at least equal to (1) Executive's Bonus Amount, multiplied by (2) a fraction, the numerator of which is the number of days in the fiscal year in which the Date of Termination occurs through the Date of Termination and the denominator of which is three hundred sixty-five (365), and reduced by (3) any amounts paid from the Company's annual incentive plan for the fiscal year in which Executive's Date of Termination occurs, (C) any accrued vacation pay, and (D) the cash equivalent of any accumulated sick leave; in each case to the extent not theretofore paid;

(ii) within 30 days following the Date of Termination, a lump-sum cash amount equal to 2.99 times the lesser of (A) the sum of Executive's average annual Base Salary for the three-year period immediately prior to Executive's Date of Termination and Executive's average annual incentive bonus earned for the three calendar years immediately preceding the calendar year in which Executive's Date of Termination occurs, or (B) the sum of Executive's Adjusted Base Salary and target annual incentive bonus for the calendar year in which Executive's Date of Termination occurs (except that, if Executive's target annual incentive bonus has not been established at the time of termination of his employment, Executive's actual annual incentive bonus for the immediately preceding calendar year will be substituted for such target annual incentive bonus);

(iii) the Company shall continue to provide, for a period of three (3) years following Executive's Date of Termination, Executive (and Executive's dependents, if applicable) with the same level of medical, dental, accident, disability and life insurance benefits and following such three year period retiree medical and dental benefits for the life of Executive and eligible dependents upon substantially the same terms and conditions (including contributions required by Executive for such benefits) as existed on Executive's Date of Termination; provided, that, if Executive cannot continue to participate in the Company plans providing such benefits or the Company shall modify or terminate any such plans, the Company shall otherwise provide such benefits on the same after-tax basis as if continued participation had been permitted. Notwithstanding the foregoing, in the event Executive becomes reemployed with another employer and becomes eligible to receive welfare benefits from such employer, the welfare benefits described herein shall be secondary to such benefits during the period of Executive's eligibility, but only to the extent that the Company reimburses Executive for any increased cost and provides any additional benefits necessary to give Executive the benefits provided hereunder;

(iv) Executive shall be entitled to the provisions of the Executive Salary Continuation Plan and, notwithstanding anything to the contrary in such Plan, (i) shall be deemed to be sixty-five years of age as of the Date of Termination for purposes of determining the Retirement Benefit and commencement of payment thereof under Section 4.1 of the Plan (without regard to Executive's actual age or date of commencement of retirement benefit payments under the Westar Energy, Inc. Retirement Plan) and Vesting under Section 4.3 of the Plan and (ii) Compensation for purposes of calculating the Retirement Benefit thereunder shall be deemed to be the lesser of (A) the sum of Executive's average annual Base Salary for the three-year period immediately prior to Executive's Date of Termination and Executive's average annual incentive bonus earned for the three calendar years immediately preceding the calendar year in which Executive's Date of Termination occurs, or (B) the sum of Executive's Adjusted Base Salary and target annual incentive bonus for the calendar year in which Executive's Date of Termination occurs (except that, if Executive's target annual incentive bonus has not been established at the time of termination of his employment, Executive's actual annual incentive bonus for the immediately preceding calendar year will be substituted for such target annual incentive bonus);

(v) continuation of participation in the Company's matching gift program as in effect on the date hereof or if more favorable to the Executive, as may be available to Executive or other comparable executives of the Company thereafter, as if Executive continued as a senior executive of the Company, for three (3) years following Executive's Date of Termination;

(vi) each stock option (and related dividend equivalent) granted to Executive by the Company and outstanding immediately prior to the Qualifying Termination shall remain outstanding and shall continue to vest and become exercisable as if Executive had remained in employment following his Date of Termination;

(vii) each restricted share granted to Executive by the Company and still subject to restrictions immediately prior to the Qualifying Termination shall remain outstanding and shall continue to vest as if Executive had remained in employment following his Date of Termination;

(viii) each restricted share unit granted to Executive by the Company which has not vested prior to the Qualifying Termination shall remain outstanding and shall continue to vest as if Executive had continued in employment following his Date of Termination, provided, however, that each restricted share unit granted to Executive in January 2002 shall vest on the tenth anniversary of the grant date unless it has vested pursuant to its terms prior to that date; and

(ix) each other stock or stock equivalent grant granted to Executive by the Company which has not vested prior to the Qualifying Termination shall remain outstanding and shall continue to vest as if Executive had remained in employment following his Date of Termination.

(b) If during the Term of this Agreement the employment of Executive shall terminate other than by reason of a Qualifying Termination, then the Company shall pay to Executive within ten (10) days following the Date of Termination, a lump-sum cash amount equal to the sum of (1) Executive's Base Salary through the Date of Termination and any Bonus Amounts which have become payable, to the extent not theretofore paid or deferred, and (2) any accrued vacation pay and accumulated sick leave, in each case to the extent not theretofore paid. The Company may make such additional payments, and provide such additional benefits, to Executive as the Company and Executive may agree in writing.

7. Gross-Up Provision.

(a) Anything in this Agreement to the contrary notwithstanding, in the event it shall be determined that any payment, award, benefit or distribution (or any acceleration of any payment, award, benefit or distribution) by the Company (or any of its affiliated entities) or any entity which effectuates a change in ownership or control described in Section 280G of the Internal Revenue Code of 1986, as amended (the "Code") (or any of its affiliated entities) to or for the benefit of Executive (whether pursuant to the terms of this Agreement or otherwise, but determined without regard to any additional payments required under this Section 7) (the "Payments") would be subject to the excise tax imposed by Section 4999 of the Code or any interest or penalties are incurred by Executive with respect to such excise tax (such excise tax, together with any such interest and penalties, are hereinafter collectively referred to as the "Excise Tax"), then the Company shall pay to Executive an additional payment (a "Gross-Up Payment") in an amount such that after payment by Executive of all taxes (including any Excise Tax) imposed upon the Gross-Up Payment, Executive retains an amount of the Gross-Up Payment equal to the sum of (x) the Excise Tax imposed upon the Payments and (y) the product of any deductions disallowed because of the inclusion of the Gross-up Payment in Executive's adjusted gross income and the highest applicable marginal rate of federal income taxation for the calendar year in which the Gross-up Payment is to be made. For purposes of determining the amount of the Gross-up Payment, the Executive shall be deemed to (i) pay federal income taxes at the highest marginal rates of federal income taxation for the calendar year in which the Gross-Up Payment is to be made (ii) pay applicable state and local income taxes at the highest marginal rate of taxation for the calendar year in which the Gross-up Payment is to be made, net of the maximum reduction in federal income taxes which could be obtained from deduction of such state and local taxes and (iii) have otherwise allowable deductions for federal income tax purposes at least equal to those which could be disallowed because of the inclusion of the Gross-up Payment in the Executive's adjusted gross income. Executive and the Company shall use their best efforts to mitigate the cost to the Company of making a Gross-up Payment.

(b) Subject to the provisions of Section 7(a), all determinations required to be made under this Section 7, including whether and when a Gross-Up Payment is required, the amount of such Gross-Up Payment, and the assumptions to be utilized in arriving at such determinations, shall be made by the public accounting firm that is retained by the Company as of the date immediately prior to the change in ownership or control (the "Accounting Firm") which shall provide detailed supporting calculations both to the Company and Executive within fifteen (15) business days of the receipt of notice from the Company or the Executive that there has been a Payment, or such earlier time as is requested by the Company (collectively, the "Determination"). In the event that the Accounting Firm is serving as accountant or auditor for the individual, entity or group effecting the change in ownership or control, Executive may appoint another nationally recognized public accounting firm to make the determinations required hereunder (which accounting firm shall then be referred to as the Accounting Firm hereunder). All fees and expenses of the Accounting Firm shall be borne solely by the Company and the Company shall enter into any agreement requested by the Accounting Firm in connection with the performance of the services hereunder. The Gross-up Payment under this Section 7 with respect to any Payments shall be made no later than thirty (30) days following such Payment. If the Accounting Firm determines that no Excise Tax is payable by Executive, it shall furnish Executive with a written opinion to such effect, and to the effect that failure to report the Excise Tax, if any, on Executive's applicable federal income tax return will not result in the imposition of a negligence or similar penalty. The Determination by the Accounting Firm shall be binding upon the Company and Executive. As a result of the uncertainty in the application of Section 4999 of the Code at the time of the Determination, it is possible that Gross-Up Payments which will not have been made by the Company should have been made ("Underpayment") or Gross-up Payments are made by the Company which should not have been made ("Overpayment"), consistent with the calculations required to be made hereunder. In the event that the Executive thereafter is required to make payment of any Excise Tax or additional Excise Tax, the Accounting Firm shall determine the amount of the Underpayment that has occurred and any such Underpayment (together with interest at the rate provided in Section 1274(b) (2) (B) of the Code and any penalties payable by Executive) shall be promptly paid by the Company to or for the benefit of Executive. In the event the amount of the Gross-up Payment exceeds the amount necessary to reimburse the Executive for his Excise Tax, the Accounting Firm shall determine the amount of the Overpayment that has been made and any such Overpayment (together with interest at the rate provided in Section 1274 (b) (2) of the Code) shall be promptly paid by Executive (to the extent he has received a refund if the applicable Excise Tax has been paid to the Internal Revenue Service) to or for the benefit of the Company. Executive shall cooperate, to the extent his expenses are reimbursed by the Company, with any reasonable requests by the Company in connection with any contests or disputes with the Internal Revenue Service in connection with the Excise Tax.

8. Confidential Information. Executive acknowledges that: (i) the business of the Company and its subsidiaries and affiliates is intensely competitive and that Executive's engagement by the Company requires that Executive have access to and knowledge of confidential information of the Company and its subsidiaries and affiliates, including, but not limited to, the identity of customers, the identity of the representatives of customers with whom the Company and its subsidiaries and affiliates have dealt, the kinds of services provided by the Company and its subsidiaries and affiliates to customers and offered to be performed for potential customers, the manner in which such services are performed or offered to be performed, the service needs of actual or prospective customers, pricing information, information concerning the creation, acquisition or disposition of products and services, customer maintenance listings, computer software applications and other programs, personnel information and other trade secrets ' (the "Confidential Information"); (ii) the direct and indirect disclosure of such Confidential Information to existing or potential competitors of the Company and its subsidiaries and affiliates would place the Company and its subsidiaries and affiliates at a competitive disadvantage and would do damage, monetary or otherwise, to the business of the Company and its subsidiaries and affiliates; and (iii) the engaging by Executive in any of the activities prohibited by this Section 8 may constitute improper appropriation and/or use of such information and trade secrets. Notwithstanding the foregoing, Confidential Information shall not include information which (x) is or becomes part of the public domain through a source other than Executive, (y) is or becomes available to Executive from a source independent of the Company and its subsidiaries and affiliates, or (z) constitutes general industry knowledge possessed by Executive by virtue of Executive's employment with the Company. Executive expressly acknowledges the trade secret status of the Confidential Information and that the Confidential Information constitutes a protectable business interest of the Company and its subsidiaries and affiliates. Accordingly, the Company and Executive agree as follows:

(a) During the Term of this Agreement and for three years following Executive's Date of Termination, Executive shall not, directly or indirectly, whether individually, as a director, stockholder, owner, partner, employee, principal or agent of any business, or in any other capacity, make known, disclose, furnish, make available or use any of the Confidential Information, other than in the proper performance of the duties contemplated herein or as required by law or by a court of competent jurisdiction or other administrative or legislative body; provided, however, that prior to disclosing any of the Confidential Information to a court or other administrative or legislative body, Executive shall promptly notify the Company so that the Company may seek a protective order or other appropriate remedy.

(b) Executive agrees to return all Confidential Information, including all photocopies, extracts and summaries thereof, and any such information stored electronically on tapes, computer disks or in any other manner to the Company at anytime upon request of the Company and upon the termination of Executive's employment for any reason.

9. Nonsolicitation. During the Term of this Agreement and for a period of two years after the Date of Termination Executive shall not, directly or indirectly, solicit, interfere with, hire, offer to hire or induce any person who is an employee of the Company or any of its subsidiaries or affiliates and whose total compensation is in excess of $100,000 to discontinue his or her relationship with the Company or any of its subsidiaries or affiliates and accept employment by, or enter into a business relationship with, Executive or any other person or entity.

10. Antidisparagement.

(a) Unless otherwise required by a court of competent jurisdiction or pursuant to any recognized subpoena power, Executive agrees and promises that Executive shall not make any oral or written statements or reveal any information to any person, company or agency which (i) is negative, disparaging or damaging to the name, reputation or business of the Company or any of its subsidiaries or affiliates, or any of their shareholders, directors, officers or employees, or (ii) has or would have a negative financial impact, whether directly or indirectly, on the Company or any of its subsidiaries and affiliates, or any of their shareholders, directors, officers or employees.

(b) Unless otherwise required by a court of competent jurisdiction or pursuant to any recognized subpoena power, the Company agrees and promises that neither it nor any of its subsidiaries and affiliates shall make any oral or written statements or reveal any information to any person, company or agency which (i) is negative, disparaging or damaging to the name, reputation or business of Executive or (ii) has or would have a negative financial impact, whether directly or indirectly, on Executive.

11. Injunctive Relief.

(a) Executive acknowledges that a breach of the undertakings in Sections 8, 9 or 10(a) of this Agreement would cause irreparable damage to the Company and its subsidiaries and affiliates, the exact amount of which shall be difficult to ascertain, and that remedies at law for any such breach would be inadequate. Executive agrees that, if Executive breaches or attempts or threatens to breach any of the undertakings in Sections 8, 9 or 10(a) of this Agreement, then the Company shall be entitled to injunctive relief without posting bond or other security, in addition to any other remedy or remedies available to the Company at law or in equity.

(b) The Company acknowledges that a breach of the undertakings in Section 10(b) of this Agreement would cause irreparable damage to Executive, the exact amount of which shall be difficult to ascertain, and that remedies at law for any such breach would be inadequate. The Company agrees that, if the Company or any of its subsidiaries or affiliates breaches or attempts or threatens to breach any of the undertakings in Section 10(b) of this Agreement, then Executive shall be entitled to injunctive relief, without posting bond or other security, in addition to any other remedy or remedies available to Executive at law or in equity.

12. Withholding Taxes. The Company may withhold from all payments due to Executive (or his beneficiary or estate) hereunder all taxes which, by applicable federal, state, local or other law, the Company is required to withhold therefrom.

13. Indemnity. The Company shall hold harmless and indemnify Executive against any and all expenses (including attorneys’ fees), judgements, fines and amounts paid in settlement actually and reasonably incurred by Executive in connection with any threatened, pending, or completed action, suit, or proceeding whether civil, criminal, administrative, or investigative (including an action by or in the right of the corporation) to which Executive is, was, or at anytime becomes a party, or is threatened to be made a party, by reason of the fact that Executive is, was, or at anytime becomes a director, officer, employee, or agent of Company, or is, or was serving, or at anytime serves at the

request of Company as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise; or otherwise to the fullest extent as may be provided to Executive by Company under the nonexclusivity provisions of Article XVIII of The Articles of Incorporation of Company and Kansas law.

14. Reimbursement of Expenses; Mitigation. (a) If any contest or dispute shall arise under this Agreement involving termination of Executive's employment with the Company or involving the failure or refusal of the Company to perform fully in accordance with the terms hereof, the Company shall reimburse Executive, on a current basis, for all legal fees and expenses, if any, incurred by Executive in connection with such contest or dispute or incurred by Executive in seeking advice with respect to any such matters (regardless of the result thereof), together with interest in an amount equal to the prime rate of JPMorgan Chase Bank from time to time in effect, but in no event higher than the maximum legal rate permissible under applicable law, such interest to accrue from the date the Company receives Executive's statement for such fees and expenses through the date of payment thereof, regardless of whether or not Executive's claim is upheld by an arbitration panel or court.

(b) Executive shall not be required to mitigate any payment the Company becomes obligated to make to Executive under this Agreement.

15. Scope of Agreement. Nothing in this Agreement shall be deemed to entitle Executive to continued employment with the Company or its Subsidiaries; provided, however, that any termination of Executive's employment during the Term of this Agreement shall be subject to all of the provisions of this Agreement.

16. Successors; Binding Agreement. (a) This Agreement shall not be terminated by any sale, merger or other business combination. In the event of any such sale, merger or other business combination, the provisions of this Agreement shall be binding upon the surviving corporation, and such surviving corporation shall be treated as the Company hereunder.

(b) The Company agrees that in connection with the sale, merger or other business combination, it will cause any successor entity to the Company unconditionally to assume (and for any Parent Corporation in such business combination to guarantee), by written instrument delivered to Executive (or his beneficiary or estate), all of the obligations of the Company hereunder.

(c) This Agreement shall inure to the benefit of and be enforceable by Executive's personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees. If Executive shall die while any amounts would be payable to Executive hereunder had Executive continued to live, all such amounts, unless otherwise provided herein, shall be paid in accordance with the terms of this Agreement to such person or persons appointed in writing by Executive to receive such amounts or, if no person is so appointed, to Executive's estate.

17. Notice. (a) For purposes of this Agreement, all notices and other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given when delivered or five (5) days after deposit in the United States mail, certified and return receipt requested, postage prepaid, addressed as follows:

If to the Executive:

David C. Wittig
521 SW Westchester Road
Topeka, KS 66606

If to the Company:

Westar Energy, Inc.
818 S. Kansas Avenue
Topeka, KS 66612
Attention: Corporate Secretary

or to such other address as either party may have furnished to the other in writing in accordance herewith, except that notices of change of address shall be effective only upon receipt.

(b) A written notice of Executive's Date of Termination by the Company or Executive, as the case may be, to the other, shall (i) indicate the specific termination provision in this Agreement relied upon, (ii) to the extent applicable, set forth in reasonable detail the facts and circumstances claimed to provide a basis for termination of Executive's employment under the provision so indicated, and (iii) specify the Date of Termination. The failure by Executive or the Company to set forth in such notice any fact or circumstance which contributes to a showing of Good Reason or Cause shall not waive any right of Executive or the Company hereunder or preclude Executive or the Company from asserting such fact or circumstance in enforcing Executive's or the Company's rights hereunder.

18. Full Settlement; Resolution of Disputes. The Company's obligation to make any payments provided for in this Agreement and otherwise to perform its obligations hereunder shall be in lieu and in full settlement of all other severance payments to Executive under any other severance or employment agreement between Executive and the Company, and any severance plan of the Company. The Company's obligations hereunder shall not be affected by any set-off, counterclaim, recoupment, defense or other claim, right or action which the Company may have against Executive or others. In no event shall Executive be obligated to seek other employment or take other action by way of mitigation of the amounts payable to Executive under any of the provisions of this Agreement and except as otherwise provided in Section 6(a)(iii), such amounts shall not be reduced whether or not Executive obtains other employment. Any dispute or controversy arising under or in connection with this Agreement shall be settled exclusively by arbitration in Topeka, Kansas by three arbitrators in accordance with the rules of the American Arbitration Association then in effect. Judgment may be entered on the arbitrators' award in any court having jurisdiction. The Company shall bear all costs and expenses arising in connection with any arbitration proceeding pursuant to this Section.

19. Employment with Subsidiaries. Employment with the Company for purposes of this Agreement shall include employment with any Subsidiary.

20. Survival. The respective obligations and benefits afforded to the Company and Executive as provided in Sections 6 (to the extent that payment or benefits are owed as a result of a termination of employment that occurs during the term of this Agreement), 7, 8, 9, 10, 11, 12, 13, 14, 16, 18, and 21 shall survive the termination of this Agreement.

21. GOVERNING LAW; VALIDITY. THE INTERPRETATION, CONSTRUCTION AND PERFORMANCE OF THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF KANSAS WITHOUT REGARD TO THE PRINCIPLE OF CONFLICTS OF LAWS. THE INVALIDITY OR UNENFORCEABILITY OF ANY PROVISION OF THIS AGREEMENT SHALL NOT AFFECT THE VALIDITY OR ENFORCEABILITY OF ANY OTHER PROVISION OF THIS AGREEMENT, WHICH OTHER PROVISIONS SHALL REMAIN IN FULL FORCE AND EFFECT.

22. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

23. Miscellaneous. No provision of this Agreement may be modified or waived unless such modification or waiver is agreed to in writing and signed by Executive and by a duly authorized officer of the Company. No waiver by either party hereto at anytime of any breach by the other party hereto of, or compliance with, any condition or provision of this Agreement to be performed by such other party shall be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time. Failure by Executive or the Company to insist upon strict compliance with any provision of this Agreement or to assert any right Executive or the Company may have hereunder, including without limitation, the right of Executive to terminate employment for Good Reason, shall not be deemed to be a waiver of such provision or right or any other provision or right of this Agreement. Except as otherwise specifically provided herein, the rights of, and benefits payable to, Executive, his estate or his beneficiaries pursuant to this Agreement are in addition to any rights of, or benefits payable to, Executive, his estate or his beneficiaries under any other employee benefit plan or compensation program of the Company.

IN WITNESS WHEREOF, the Company has caused this Agreement to be executed by a duly authorized officer of the Company and Executive has executed this Agreement as of the day and year first above written.

WESTAR ENERGY, INC.

By: /S/ BRUCE A. AKIN

Name: Bruce A. Akin
Title: Vice President, Business Services

By: /S/ DAVID C. WITTIG

David C. Wittig
Chairman, President and
Chief Executive Officer

The following non-employee members of the Board of Directors are executing this Agreement to evidence their approval thereof pursuant to a duly adopted resolution of the Company's Board of Directors.

/S/ FRANK J. BECKER

Frank J. Becker

/S/ JOHN C. DICUS

John C. Dicus

/S/ GENE A. BUDIG

Gene A. Budig

/S/ R.A. EDWARDS

R.A. Edwards

Charles Q. Chandler, IV

/S/ JOHN C. NETTELS, JR.

John C. Nettels, Jr.

Exhibit 10.2

EMPLOYMENT AGREEMENT

THIS AGREEMENT is entered into as of the 23rd day of September, 2002 by and between **Westar Energy, Inc.**, a Kansas corporation (the "Company"), and **Douglas T. Lake** ("Executive"). This Agreement amends and restates in its entirety the Employment Agreement between the Company (then named Western Resources, Inc.) and Executive, dated September 19, 2000, as amended.

W I T N E S S E T H

WHEREAS, the Company considers the establishment and maintenance of a sound and vital management to be essential to protecting and enhancing the best interests of the Company and its stockholders; and

WHEREAS, the Board (as defined in Section 1) has determined that it is in the best interests of the Company and its stockholders to secure Executive's continued services; and

WHEREAS, the Company also recognizes that the possibility of a change in control could arise which may result in the distraction of management to the detriment of the Company and its shareholders. It is important that Executive be able to advise the Board whether a proposed change in control would be in the best interests of the Company and its shareholders and to take action regarding such proposal as the Board directs, without being influenced by the uncertainties of Executive's own situation.

WHEREAS, the Board has authorized the Company to enter into this Agreement.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants and agreements herein contained, the Company and Executive hereby agree as follows:

1. <u>Definitions</u>. As used in this Agreement, the following terms shall have the respective meanings set forth below:

(a) "Adjusted Base Salary" shall mean ninety percent (90%) of the annual salary job value for the pay grade of Executive and other remuneration for current services (but excluding all bonuses, stock based awards and other incentive compensation) paid to or for the benefit of Executive.

(b) "Base Salary" shall mean all salary, cash compensation and other remuneration for current services (but excluding all bonuses, stock based awards and other incentive compensation) paid to, for the benefit of or deferred by Executive, together (without duplication) with the compensation that would have been payable in cash to Executive if such compensation had not been converted into Restricted Share Units pursuant to the Western Resources, Inc. Executive Stock for Compensation Program.

(c) "Board" means the Board of Directors of the Company.

(d) "Bonus Amount" means the greater of (a) the highest annual incentive bonus payable to or for the benefit of or deferred by Executive from the Company (or its affiliates) for the last three (3) completed fiscal years of the Company immediately preceding Executive's Date of Termination (annualized in the event Executive was not employed by the Company (or its affiliates) for the whole of any such fiscal year), or (b) the Executive's target bonus amount for the year of termination of employment.

(e) "Cause" means (i) the willful and continued failure of Executive to perform substantially his duties with the Company (other than any such failure resulting from Executive's incapacity due to physical or mental illness or any such failure subsequent to Executive being delivered a Notice of Termination without Cause by the Company or delivering a Notice of Termination for Good Reason to the Company) after a written demand for substantial performance is delivered to Executive by the Chairman of the Board which specifically identifies the manner in which Executive has not substantially performed Executive's duties, or (ii) the willful engaging by Executive in illegal conduct which is demonstrably and materially injurious to the Company. For purposes of this paragraph (e), no act or failure to act by Executive shall be considered "willful" unless done or omitted to be done by Executive in bad faith and without reasonable belief that Executive's action or omission was in, or not opposed to, the best interests of the Company. Any act, or failure to act, based upon authority given pursuant to a resolution duly adopted by the Board, based upon the advice of counsel for the Company or upon the instructions of the Company's chief executive officer or another senior officer of the Company shall be conclusively presumed to be done, or omitted to be done, by Executive in good faith and in the best interests of the Company. Executive's attention to matters not directly related to the business of the Company shall not provide a basis for termination for Cause if the Company has not objected to such activity in writing. Cause shall not exist unless and until the Company has delivered to Executive a copy of a resolution duly adopted by three-quarters (3/4) of the entire Board (excluding any Board member who is an employee of the Company) at a meeting of the Board called and held for such purpose (after reasonable notice to Executive and an opportunity for Executive, together with counsel, to be heard before the Board), finding that in the good faith opinion of the Board an event set forth in clauses (i) or (ii) has occurred and specifying the particulars thereof in detail.

(f) "Change in Control" means the occurrence of any one of the following events:

(i) individuals who, on September 23, 2002, constitute the Board (the "Incumbent Directors") cease for any reason to constitute at least a majority of the Board, provided that any person becoming a director subsequent to September 23, 2002, whose election or nomination for election was approved by a vote of at least three-fourths of the Incumbent Directors then on the Board (either by a specific vote or by approval of the proxy statement of the Company in which such person is named as a nominee for director, without written objection to such nomination) shall be an Incumbent Director; provided, however, that no individual initially elected or nominated as a director of the Company as a result of an actual or threatened election contest with respect to directors or as a result of any other actual or threatened solicitation of proxies or consents, by or on behalf of any person other than the Board shall be deemed to be an Incumbent Director;

(ii) any "person" (as such term is defined in Section 3(a)(9) of the Securities Exchange Act of 1934 (the "Exchange Act") and as used in Sections 13(d)(3) and 14(d)(2) of the Exchange Act) is or becomes a "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the Company representing 20% or more of the combined voting power of the Company's then outstanding securities eligible to vote for the election of the Board (the "Company Voting Securities"); provided, however, that the event described in this paragraph (ii) shall not be deemed to be a Change in Control by virtue of any of the following acquisitions: (A) by the Company or any Subsidiary, (B) by any employee benefit plan (or related trust) sponsored or maintained by the Company or any Subsidiary, (C) by any underwriter temporarily holding securities pursuant to an offering of such securities, (D) pursuant to a Non-Qualifying Transaction (as defined in paragraph (iii)), (E) pursuant to any acquisition by Executive or any group of persons including Executive (or any entity controlled by Executive or any group of persons including Executive);

(iii) the consummation of a merger, consolidation,. statutory share exchange or similar form of corporate transaction involving the Company or any of its Subsidiaries (a "Business Combination"), unless immediately following such Business Combination: (A) more than 60% of the total voting power of (x) the corporation resulting from such Business Combination (the "Surviving Corporation"), or (y) if applicable, the ultimate parent corporation that directly or indirectly has beneficial ownership of 100% of the voting securities eligible to elect directors of the Surviving Corporation (the "Parent Corporation"), is represented by Company Voting Securities that were outstanding immediately prior to such Business Combination (or, if applicable, is represented by shares into which such Company Voting Securities were converted pursuant to such Business Combination), and such voting power among the holders thereof is in substantially the same proportion as the voting power of such Company Voting Securities among the holders thereof immediately prior to the Business Combination, (B) no person (other than any employee benefit plan (or related trust) sponsored or maintained by the Surviving Corporation or the Parent Corporation) is or becomes the beneficial owner, directly or indirectly, of 20% or more of the total voting power of the outstanding voting securities eligible to elect directors of the Parent Corporation (or, if there is no Parent Corporation, the Surviving Corporation) and (C) at least a majority of the members of the board of directors of the Parent Corporation (or, if there is no Parent Corporation, the Surviving Corporation) following the consummation of the Business Combination were Incumbent Directors at the time of the Board's approval of the execution of the initial agreement providing for such Business Combination (any Business Combination which satisfies all of the criteria specified in (A), (B) and (C) above shall be deemed to be a "Non-Qualifying Transaction"); or

(iv) the stockholders of the Company approve a plan of complete liquidation or dissolution of the Company or a sale of all or substantially all of the Company's assets other than the Company's interests in Protection One, Inc. or ONEOK, Inc.

(g) "Date of Termination" means (i) if Executive's employment is to be terminated for Disability, 30 days after Notice of Termination is given (provided that Executive shall not have returned to the performance of Executive's duties on a full-time basis during such 30 day period), (ii) if Executive's employment is to be terminated by the Company for Cause or by Executive for Good Reason, the date specified in the Notice of Termination, (iii) if Executive's employment is to be terminated by the Company for any reason other than Cause, the date specified in the Notice of

Termination, which shall be 90 days after the Notice of Termination is given, unless an earlier date has been expressly agreed to by Executive in writing, (iv) if Executive’s employment terminates by reason of death, the date of death of Executive; or (v) if Executive’s employment is terminated by Executive other than for Good Reason, the date specified in Executive’s Notice of Termination, but not more than 30 days after the Notice of Termination is given, unless expressly agreed to by the Company in writing.

(h) “Disability” means termination of Executive’s employment by the Company due to Executive’s absence from Executive’s duties with the Company on a full-time basis for at least one hundred eighty (180) consecutive days as a result of Executive’s incapacity due to physical or mental illness, unless within 30 days after Notice of Termination is given to Executive following such absence Executive shall have returned to the full time performance of Executive’s duties.

(i) “Good Reason” shall mean termination based on any of the following events:

(i) (A) any change in the duties or responsibilities (including reporting responsibilities) of Executive that is inconsistent in any material and adverse respect with Executive’s position(s), duties, responsibilities or status with the Company (including any adverse diminution of such duties or responsibilities) or (B) the failure to reappoint or reelect Executive to any position held by Executive without Executive’s consent; provided, however, that Good Reason shall not be deemed to occur upon a change in duties or responsibilities (other than reporting responsibilities) that is solely and directly a result of the Company no longer being a publicly traded entity and does not involve any other event set forth in this paragraph;

(ii) a reduction by the Company in Executive’s Base Salary, annual target bonus opportunity or targeted long-term incentive value (including any material and adverse change in the formula for such annual bonus target or long-term incentive target) as in effect immediately prior to the date hereof or as the same may be increased from time to time thereafter;

(iii) any requirement of the Company that Executive (A) be required to relocate more than 100 miles from Executive’s present place of employment or (B) travel on Company business to an extent substantially greater than the travel obligations of Executive immediately prior to the date hereof;

(iv) the failure of the Company to (A) continue in effect any employee benefit plan, welfare benefit plan or fringe benefit plan in which Executive is participating immediately prior to the date hereof or, if more favorable, which may be available from time to time hereafter to Executive or other executives of the Company, or the taking of any action by the Company which would materially and adversely affect Executive’s participation in or reduce Executive’s benefits under any such plan, unless Executive is permitted to participate in other plans providing Executive with substantially equivalent benefits (at no greater cost to Executive with respect to welfare benefit plans), or (B) provide Executive with paid vacation and sick leave in accordance with the most favorable policies of the Company as in effect for Executive immediately prior to the date hereof or, if more favorable, as may be available for Executive or other executives of the Company after the date hereof; provided however, that prior to a Change in Control, changes in any such plans which constitute in the aggregate less than 10% of Executive's aggregate benefits under such plans and which are applied to all employees of the Company shall not constitute "Good Reason";

(v) any refusal by the Company to permit Executive to engage in activities not directly related to the business of the Company which Executive was, or other executives of the Company are, permitted to engage in;

(vi) any purported termination of Executive's employment which is not effectuated pursuant to Section 17(b) (and which will not constitute a termination hereunder);

(vii) the failure of the Company to obtain the assumption (and, if applicable, guarantee) agreement contemplated in Section 16(b); or

(viii) the Company's termination of this Agreement or the failure of the Company to renew this Agreement as provided in Section 4 hereof.

For purposes of this Agreement, any good faith determination of Good Reason by Executive shall be conclusive, provided however, that an isolated, insubstantial and inadvertent action taken in good faith and which is remedied by the Company within ten (10) days after receipt of notice thereof given by Executive shall not constitute Good Reason. Executive's right to terminate employment for Good Reason shall not be affected by Executive's incapacities due to mental or physical illness and Executive's continued employment shall not constitute consent to, or a waiver of rights with respect to, any event or condition constituting Good Reason; provided, however, that Executive must provide notice of termination of employment within one hundred eighty (180) days following Executive's knowledge of an event constituting Good Reason or such event shall not constitute Good Reason under this Agreement.

(j) "Notice of Termination" means a written notice of termination of employment given by one party to the other party pursuant to Section 17(b).

(k) "Qualifying Termination" means a termination of Executive's employment (i) by the Company other than for Cause; (ii) by Executive for Good Reason; or (iii) by Executive during the 90 day period after a Change in Control. Termination of Executive's employment on account of death, Disability or Retirement shall not be treated as a Qualifying Termination. In addition, in the event that Executive (i) is offered employment with a publicly traded subsidiary of the Company, (ii) accepts such offer, (iii) terminates employment with the Company, and (iv) such publicly traded subsidiary does not provide Executive the benefits described in this Agreement, Executive shall be deemed to have terminated employment with the Company pursuant to a Qualifying Termination upon commencing such employment with the subsidiary and shall be entitled to the benefits described in this Agreement payable by reason of a Qualifying Termination.

(l) "Retirement" means Executive's termination on or after Executive's normal retirement date under the terms of the Westar Energy, Inc. Retirement Plan, as in effect immediately prior to Executive's termination or a Change in Control, whichever is earlier, or in accordance with any retirement arrangement established with respect to Executive with Executive's written consent.

(m) “Subsidiary” means any corporation or other entity in which the Company has a direct or indirect ownership interest of 50% or more of the total combined voting power of the then outstanding securities or interests of such corporation or other entity entitled to vote generally in the election of directors or in which the Company has the right to receive 50% or more of the distribution of profits or 50% of the assets upon liquidation or dissolution.

2. Employment and Duties.

(a) Term of Employment. The Company agrees to continue to employ Executive, and Executive agrees to remain in employment of the Company, in accordance with the terms and provisions of this Agreement, for the Term of this Agreement, unless such employment is sooner terminated by the Company or Executive.

(b) Duties. During the term of Executive’s employment under this Agreement, Executive shall serve as Chief Executive Officer of the Company. Executive shall devote Executive’s full business time and attention to the affairs of the Company and his duties as its Chief Executive Officer. Executive shall have such duties as are appropriate to Executive’s position as Chief Executive Officer, and shall have such authority as required to enable Executive to perform these duties. Consistent with the foregoing, Executive shall comply with all reasonable instructions of the Board of Directors of the Company. Executive shall be based at the headquarters of the Company in Topeka, Kansas and Executive’s services shall be rendered there except insofar as travel may be involved in connection with Executive’s regular duties. Executive shall report directly to the Board of Directors.

3. Obligation of Executive. In the event of a tender or exchange offer, proxy contest, or the execution of any agreement which, if consummated, would constitute a Change in Control, Executive agrees not to voluntarily leave the employ of the Company, other than as a result of Disability, Retirement or an event which would constitute Good Reason, until the Change in Control occurs or, if earlier, such tender or exchange offer, proxy contest, or agreement is terminated or abandoned.

4. Term of Agreement. This Agreement shall continue for a period of three (3) years from the date hereof provided that on each anniversary of the Agreement, the term shall automatically be extended for one year, unless at least 90 days prior to such date, the Company or Executive shall have given notice to cancel this Agreement at the end of its then term.

5. Salary and Benefits.

(a) Salary. The Company shall pay Executive an annual salary at an initial rate equal to Executive’s current Base Salary which shall be reviewed annually by the Human Resources Committee of the Board for the purpose of considering increases thereof. Executive’s salary shall be paid in accordance with the standard practices for other senior corporate executives of the Company.

(b) Bonuses. Executive shall be eligible to receive annually or otherwise any bonus awards, whether payable in cash, shares of common stock of the Company or otherwise, which the Company, the Human Resources Committee of the Board or such other authorized committee of the Board determines to award or grant.

(c) Benefit Programs. Executive shall receive such benefits and awards, including without limitation stock options and restricted share unit awards, as the Human Resources committee of the Board shall determine and shall be eligible to participate in all employee benefit plans and programs of the Company from time to time in effect for the benefit of senior executives of the Company, including, but not limited to, pension and other retirement plans, 401(k) plans, group life insurance, hospitalization and surgical and major medical coverages, sick leave, salary continuation arrangements, vacations and holidays, long-term disability, and such other benefits as are or may be made available from time to time to senior executives of the Company.

(d) Business Expenses and Perquisites. Executive shall be reimbursed for all reasonable expenses incurred by Executive in connection with the conduct of the business of the Company, provided Executive properly accounts therefor in accordance with the Company's policies. Executive shall also be entitled to such other perquisites as are customary for senior executives of the Company.

(e) Office and Services Furnished. The company shall furnish Executive with office space, secretarial assistance and such other facilities and services as shall be suitable to Executive's position and adequate for the performance of Executive's duties hereunder.

6. Payments Upon Termination of Employment.

(a) Qualifying Termination. If during the Term of this Agreement the employment of Executive shall terminate pursuant to a Qualifying Termination, then the Company shall provide to Executive:

(i) within 30 days following the Date of Termination a lump-sum cash amount equal to the sum of (A) Executive's Base Salary through the Date of Termination and any bonus amounts which have become payable to the extent not theretofore paid or deferred, (B) a pro rata portion of Executive's annual bonus for the fiscal year in which Executive's Date of Termination occurs in an amount at least equal to (1) Executive's Bonus Amount, multiplied by (2) a fraction, the numerator of which is the number of days in the fiscal year in which the Date of Termination occurs through the Date of Termination and the denominator of which is three hundred sixty-five (365), and reduced by (3) any amounts paid from the Company's annual incentive plan for the fiscal year in which Executive's Date of Termination occurs, (C) any accrued vacation pay, and (D) the cash equivalent of any accumulated sick leave; in each case to the extent not theretofore paid;

(ii) within 30 days following the Date of Termination, a lump-sum cash amount equal to 2.99 times the lesser of (A) the sum of Executive's average annual Base Salary for the three-year period immediately prior to Executive's Date of Termination and Executive's average annual incentive bonus earned for the three calendar years immediately preceding the calendar year in which Executive's Date of Termination occurs, or (B) the sum of Executive's Adjusted Base Salary and target annual incentive bonus for the calendar year in which Executive's Date of Termination occurs (except that, if Executive's target annual incentive bonus has not been established at the time of termination of his employment, Executive's actual annual incentive bonus for the immediately preceding calendar year will be substituted for such target annual incentive bonus);

(iii) the Company shall continue to provide, for a period of three (3) years following Executive's Date of Termination, Executive (and Executive's dependents, if applicable) with the same level of medical, dental, accident, disability and life insurance benefits and following such three year period retiree medical and dental benefits for the life of Executive and eligible dependents upon substantially the same terms and conditions (including contributions required by Executive for such benefits) as existed on Executive's Date of Termination; provided, that, if Executive cannot continue to participate in the Company plans providing such benefits or the Company shall modify or terminate any such plans, the Company shall otherwise provide such benefits on the same after-tax basis as if continued participation had been permitted. Notwithstanding the foregoing, in the event Executive becomes reemployed with another employer and becomes eligible to receive welfare benefits from such employer, the welfare benefits described herein shall be secondary to such benefits during the period of Executive's eligibility, but only to the extent that the Company reimburses Executive for any increased cost and provides any additional benefits necessary to give Executive the benefits provided hereunder;

(iv) Executive shall be entitled to the provisions of the Executive Salary Continuation Plan and, notwithstanding anything to the contrary in such Plan, (i) shall be deemed to be sixty-five years of age as of the Date of Termination for purposes of determining the Retirement Benefit and commencement of payment thereof under Section 4.1 of the Plan (without regard to Executive's actual age or date of commencement of retirement benefit payments under the Westar Energy, Inc. Retirement Plan) and Vesting under Section 4.3 of the Plan and (ii) Compensation for purposes of calculating the Retirement Benefit thereunder shall be deemed to be the lesser of (A) the sum of Executive's average annual Base Salary for the three-year period immediately prior to Executive's Date of Termination and Executive's average annual incentive bonus earned for the three calendar years immediately preceding the calendar year in which Executive's Date of Termination occurs, or (B) the sum of Executive's Adjusted Base Salary and target annual incentive bonus for the calendar year in which Executive's Date of Termination occurs (except that, if Executive's target annual incentive bonus has not been established at the time of termination of his employment, Executive's actual annual incentive bonus for the immediately preceding calendar year will be substituted for such target annual incentive bonus);

(v) continuation of participation in the Company's matching gift program as in effect on the date hereof or if more favorable to the Executive, as may be available to Executive or other comparable executives of the Company thereafter, as if Executive continued as a senior executive of the Company, for three (3) years following Executive's Date of Termination;

(vi) each stock option (and related dividend equivalent) granted to Executive by the Company and outstanding immediately prior to the Qualifying Termination shall remain outstanding and shall continue to vest and become exercisable as if Executive had remained in employment following his Date of Termination;

(vii) each restricted share granted to Executive by the Company and still subject to restrictions immediately prior to the Qualifying Termination shall remain outstanding and shall continue to vest as if Executive had remained in employment following his Date of Termination;

(viii) each restricted share unit granted to Executive by the Company which has not vested prior to the Qualifying Termination shall remain outstanding and shall continue to vest as if Executive had continued in employment following his Date of Termination, provided, however, that each restricted share unit granted to Executive in January 2002 shall vest on the tenth anniversary of the grant date unless it has vested pursuant to its terms prior to that date; and

(ix) each other stock or stock equivalent grant granted to Executive by the Company which has not vested prior to the Qualifying Termination shall remain outstanding and shall continue to vest as if Executive had remained in employment following his Date of Termination.

(b) If during the Term of this Agreement the employment of Executive shall terminate other than by reason of a Qualifying Termination, then the Company shall pay to Executive within ten (10) days following the Date of Termination, a lump-sum cash amount equal to the sum of (1) Executive's Base Salary through the Date of Termination and any Bonus Amounts which have become payable, to the extent not theretofore paid or deferred, and (2) any accrued vacation pay and accumulated sick leave, in each case to the extent not theretofore paid. The Company may make such additional payments, and provide such additional benefits, to Executive as the Company and Executive may agree in writing.

7. <u>Gross-Up Provision</u>.

(a) Anything in this Agreement to the contrary notwithstanding, in the event it shall be determined that any payment, award, benefit or distribution (or any acceleration of any payment, award, benefit or distribution) by the Company (or any of its affiliated entities) or any entity which effectuates a change in ownership or control described in Section 280G of the Internal Revenue Code of 1986, as amended (the "Code") (or any of its affiliated entities) to or for the benefit of Executive (whether pursuant to the terms of this Agreement or otherwise, but determined without regard to any additional payments required under this Section 7) (the "Payments") would be subject to the excise tax imposed by Section 4999 of the Code or any interest or penalties are incurred by Executive with respect to such excise tax (such excise tax, together with any such interest and penalties, are hereinafter collectively referred to as the "Excise Tax"), then the Company shall pay to Executive an additional payment (a "Gross-Up Payment") in an amount such that after payment by Executive of all taxes (including any Excise Tax) imposed upon the Gross-Up Payment, Executive retains an amount of the Gross-Up Payment equal to the sum of (x) the Excise Tax imposed upon the Payments and (y) the product of any deductions disallowed because of the inclusion of the Gross-up Payment in Executive's adjusted gross income and the highest applicable marginal rate of federal income taxation for the calendar year in which the Gross-up Payment is to be made. For purposes of determining the amount of the Gross-up Payment, the Executive shall be deemed to (i) pay federal income taxes at the highest marginal rates of federal income taxation for the calendar year in which the Gross-up Payment is to be made (ii) pay applicable state and local income taxes at the highest marginal rate of taxation for the calendar year in which the Gross-up Payment is to be made, net of the maximum reduction in federal income taxes which could be obtained from deduction of such state and local taxes and (iii) have otherwise allowable deductions for federal income tax purposes at least equal to those which could be disallowed because of the inclusion of the Gross-up Payment in the Executive's adjusted gross income. Executive and the Company shall use their best efforts to mitigate the cost to the Company of making a Gross-up Payment.

(b) Subject to the provisions of Section 7(a), all determinations required to be made under this Section 7, including whether and when a Gross-Up Payment is required, the amount of such Gross-Up Payment, and the assumptions to be utilized in arriving at such determinations, shall be made by the public accounting firm that is retained by the Company as of the date immediately prior to the change in ownership or control (the "Accounting Firm") which shall provide detailed supporting calculations both to the Company and Executive within fifteen (15) business days of the receipt of notice from the Company or the Executive that there has been a Payment, or such earlier time as is requested by the Company (collectively, the "Determination"). In the event that the Accounting Firm is serving as accountant or auditor for the individual, entity or group effecting the change in ownership or control, Executive may appoint another nationally recognized public accounting firm to make the determinations required hereunder (which accounting firm shall then be referred to as the Accounting Firm hereunder). All fees and expenses of the Accounting Firm shall be borne solely by the Company and the Company shall enter into any agreement requested by the Accounting Firm in connection with the performance of the services hereunder. The Gross-up Payment under this Section 7 with respect to any Payments shall be made no later than thirty (30) days following such Payment. If the Accounting Firm determines that no Excise Tax is payable by Executive, it shall furnish Executive with a written opinion to such effect, and to the effect that failure to report the Excise Tax, if any, on Executive's applicable federal income tax return will not result in the imposition of a negligence or similar penalty. The Determination by the Accounting Firm shall be binding upon the Company and Executive. As a result of the uncertainty in the application of Section 4999 of the Code at the time of the Determination, it is possible that Gross-Up Payments which will not have been made by the Company should have been made ("Underpayment") or Gross-up Payments are made by the Company which should not have been made ("Overpayment"), consistent with the calculations required to be made hereunder. In the event that the Executive thereafter is required to make payment of any Excise Tax or additional Excise Tax, the Accounting Firm shall determine the amount of the Underpayment that has occurred and any such Underpayment (together with interest at the rate provided in Section 1274(b) (2) (B) of the Code and any penalties payable by Executive) shall be promptly paid by the Company to or for the benefit of Executive. In the event the amount of the Gross-up Payment exceeds the amount necessary to reimburse the Executive for his Excise Tax, the Accounting Firm shall determine the amount of the Overpayment that has been made and any such Overpayment (together with interest at the rate provided in Section 1274 (b) (2) of the Code) shall be promptly paid by Executive (to the extent he has received a refund if the applicable Excise Tax has been paid to the Internal Revenue Service) to or for the benefit of the Company. Executive shall cooperate, to the extent his expenses are reimbursed by the Company, with any reasonable requests by the Company in connection with any contests or disputes with the Internal Revenue Service in connection with the Excise Tax.

8. Confidential Information. Executive acknowledges that: (i) the business of the Company and its subsidiaries and affiliates is intensely competitive and that Executive's engagement by the Company requires that Executive have access to and knowledge of confidential information of the Company and its subsidiaries and affiliates, including, but not limited to, the identity of customers, the identity of the representatives of customers with whom the Company and its subsidiaries and affiliates have dealt, the kinds of services provided by the Company and its subsidiaries and affiliates to customers and offered to be performed for potential customers, the manner in which such services are performed or offered to be performed, the service needs of actual or prospective customers, pricing information, information concerning the creation, acquisition or disposition of products and services, customer maintenance listings, computer software applications and other programs, personnel information and other trade secrets ' (the "Confidential Information"); (ii) the direct and indirect disclosure of such Confidential Information to existing or potential competitors of the Company and its subsidiaries and affiliates would place the Company and its subsidiaries and affiliates at a competitive disadvantage and would do damage, monetary or otherwise, to the business of the Company and its subsidiaries and affiliates; and (iii) the engaging by Executive in any of the activities prohibited by this Section 8 may constitute improper appropriation and/or use of such information and trade secrets. Notwithstanding the foregoing, Confidential Information shall not include information which (x) is or becomes part of the public domain through a source other than Executive, (y) is or becomes available to Executive from a source independent of the Company and its subsidiaries and affiliates, or (z) constitutes general industry knowledge possessed by Executive by virtue of Executive's employment with the Company. Executive expressly acknowledges the trade secret status of the Confidential Information and that the Confidential Information constitutes a protectable business interest of the Company and its subsidiaries and affiliates. Accordingly, the Company and Executive agree as follows:

(a) During the Term of this Agreement and for three years following Executive's Date of Termination, Executive shall not, directly or indirectly, whether individually, as a director, stockholder, owner, partner, employee, principal or agent of any business, or in any other capacity, make known, disclose, furnish, make available or use any of the Confidential Information, other than in the proper performance of the duties contemplated herein or as required by law or by a court of competent jurisdiction or other administrative or legislative body; provided, however, that prior to disclosing any of the Confidential Information to a court or other administrative or legislative body, Executive shall promptly notify the Company so that the Company may seek a protective order or other appropriate remedy.

(b) Executive agrees to return all Confidential Information, including all photocopies, extracts and summaries thereof, and any such information stored electronically on tapes, computer disks or in any other manner to the Company at anytime upon request of the Company and upon the termination of Executive's employment for any reason.

9. Nonsolicitation. During the Term of this Agreement and for a period of two years after the Date of Termination Executive shall not, directly or indirectly, solicit, interfere with, hire, offer to hire or induce any person who is an employee of the Company or any of its subsidiaries or affiliates and whose total compensation is in excess of $100,000 to discontinue his or her relationship with the Company or any of its subsidiaries or affiliates and accept employment by, or enter into a business relationship with, Executive or any other person or entity.

10. Antidisparagement.

(a) Unless otherwise required by a court of competent jurisdiction or pursuant to any recognized subpoena power, Executive agrees and promises that Executive shall not make any oral or written statements or reveal any information to any person, company or agency which (i) is negative, disparaging or damaging to the name, reputation or business of the Company or any of its subsidiaries or affiliates, or any of their shareholders, directors, officers or employees, or (ii) has or would have a negative financial impact, whether directly or indirectly, on the Company or any of its subsidiaries and affiliates, or any of their shareholders, directors, officers or employees.

(b) Unless otherwise required by a court of competent jurisdiction or pursuant to any recognized subpoena power, the Company agrees and promises that neither it nor any of its subsidiaries and affiliates shall make any oral or written statements or reveal any information to any person, company or agency which (i) is negative, disparaging or damaging to the name, reputation or business of Executive or (ii) has or would have a negative financial impact, whether directly or indirectly, on Executive.

11. Injunctive Relief.

(a) Executive acknowledges that a breach of the undertakings in Sections 8, 9 or 10(a) of this Agreement would cause irreparable damage to the Company and its subsidiaries and affiliates, the exact amount of which shall be difficult to ascertain, and that remedies at law for any such breach would be inadequate. Executive agrees that, if Executive breaches or attempts or threatens to breach any of the undertakings in Sections 8, 9 or 10(a) of this Agreement, then the Company shall be entitled to injunctive relief without posting bond or other security, in addition to any other remedy or remedies available to the Company at law or in equity.

(b) The Company acknowledges that a breach of the undertakings in Section 10(b) of this Agreement would cause irreparable damage to Executive, the exact amount of which shall be difficult to ascertain, and that remedies at law for any such breach would be inadequate. The Company agrees that, if the Company or any of its subsidiaries or affiliates breaches or attempts or threatens to breach any of the undertakings in Section 10(b) of this Agreement, then Executive shall be entitled to injunctive relief, without posting bond or other security, in addition to any other remedy or remedies available to Executive at law or in equity.

12. Withholding Taxes. The Company may withhold from all payments due to Executive (or his beneficiary or estate) hereunder all taxes which, by applicable federal, state, local or other law, the Company is required to withhold therefrom.

13. Indemnity. The Company shall hold harmless and indemnify Executive against any and all expenses (including attorneys' fees), judgements, fines and amounts paid in settlement actually and reasonably incurred by Executive in connection with any threatened, pending, or completed action, suit, or proceeding whether civil, criminal, administrative, or investigative (including an action by or in the right of the corporation) to which Executive is, was, or at anytime becomes a party, or is threatened to be made a party, by reason of the fact that Executive is, was, or at anytime becomes a director, officer, employee, or agent of Company, or is, or was serving, or at anytime serves at the

request of Company as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise; or otherwise to the fullest extent as may be provided to Executive by Company under the nonexclusivity provisions of Article XVIII of The Articles of Incorporation of Company and Kansas law.

14. Reimbursement of Expenses; Mitigation. (a) If any contest or dispute shall arise under this Agreement involving termination of Executive's employment with the Company or involving the failure or refusal of the Company to perform fully in accordance with the terms hereof, the Company shall reimburse Executive, on a current basis, for all legal fees and expenses, if any, incurred by Executive in connection with such contest or dispute or incurred by Executive in seeking advice with respect to any such matters (regardless of the result thereof), together with interest in an amount equal to the prime rate of JPMorgan Chase Bank from time to time in effect, but in no event higher than the maximum legal rate permissible under applicable law, such interest to accrue from the date the Company receives Executive's statement for such fees and expenses through the date of payment thereof, regardless of whether or not Executive's claim is upheld by an arbitration panel or court.

(b) Executive shall not be required to mitigate any payment the Company becomes obligated to make to Executive under this Agreement.

15. Scope of Agreement. Nothing in this Agreement shall be deemed to entitle Executive to continued employment with the Company or its Subsidiaries; provided, however, that any termination of Executive's employment during the Term of this Agreement shall be subject to all of the provisions of this Agreement.

16. Successors; Binding Agreement. (a) This Agreement shall not be terminated by any sale, merger or other business combination. In the event of any such sale, merger or other business combination, the provisions of this Agreement shall be binding upon the surviving corporation, and such surviving corporation shall be treated as the Company hereunder.

(b) The Company agrees that in connection with the sale, merger or other business combination, it will cause any successor entity to the Company unconditionally to assume (and for any Parent Corporation in such business combination to guarantee), by written instrument delivered to Executive (or his beneficiary or estate), all of the obligations of the Company hereunder.

(c) This Agreement shall inure to the benefit of and be enforceable by Executive's personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees. If Executive shall die while any amounts would be payable to Executive hereunder had Executive continued to live, all such amounts, unless otherwise provided herein, shall be paid in accordance with the terms of this Agreement to such person or persons appointed in writing by Executive to receive such amounts or, if no person is so appointed, to Executive's estate.

17. Notice. (a) For purposes of this Agreement, all notices and other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given when delivered or five (5) days after deposit in the United States mail, certified and return receipt requested, postage prepaid, addressed as follows:

If to the Executive:

Douglas T. Lake
3742 SW Clarion Park Drive
Topeka, KS 66610

If to the Company:

Westar Energy, Inc.
818 S. Kansas Avenue
Topeka, KS 66612
Attention: Corporate Secretary

or to such other address as either party may have furnished to the other in writing in accordance herewith, except that notices of change of address shall be effective only upon receipt.

(b) A written notice of Executive's Date of Termination by the Company or Executive, as the case may be, to the other, shall (i) indicate the specific termination provision in this Agreement relied upon, (ii) to the extent applicable, set forth in reasonable detail the facts and circumstances claimed to provide a basis for termination of Executive's employment under the provision so indicated, and (iii) specify the Date of Termination. The failure by Executive or the Company to set forth in such notice any fact or circumstance which contributes to a showing of Good Reason or Cause shall not waive any right of Executive or the Company hereunder or preclude Executive or the Company from asserting such fact or circumstance in enforcing Executive's or the Company's rights hereunder.

18. Full Settlement; Resolution of Disputes. The Company's obligation to make any payments provided for in this Agreement and otherwise to perform its obligations hereunder shall be in lieu and in full settlement of all other severance payments to Executive under any other severance or employment agreement between Executive and the Company, and any severance plan of the Company. The Company's obligations hereunder shall not be affected by any set-off, counterclaim, recoupment, defense or other claim, right or action which the Company may have against Executive or others. In no event shall Executive be obligated to seek other employment or take other action by way of mitigation of the amounts payable to Executive under any of the provisions of this Agreement and except as otherwise provided in Section 6(a)(iii), such amounts shall not be reduced whether or not Executive obtains other employment. Any dispute or controversy arising under or in connection with this Agreement shall be settled exclusively by arbitration in Topeka, Kansas by three arbitrators in accordance with the rules of the American Arbitration Association then in effect. Judgment may be entered on the arbitrators' award in any court having jurisdiction. The Company shall bear all costs and expenses arising in connection with any arbitration proceeding pursuant to this Section.

19. Employment with Subsidiaries. Employment with the Company for purposes of this Agreement shall include employment with any Subsidiary.

20. Survival. The respective obligations and benefits afforded to the Company and Executive as provided in Sections 6 (to the extent that payment or benefits are owed as a result of a

termination of employment that occurs during the term of this Agreement), 7, 8, 9, 10, 11, 12, 13, 14, 16, 18, and 21 shall survive the termination of this Agreement.

21. GOVERNING LAW; VALIDITY. THE INTERPRETATION, CONSTRUCTION AND PERFORMANCE OF THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF KANSAS WITHOUT REGARD TO THE PRINCIPLE OF CONFLICTS OF LAWS. THE INVALIDITY OR UNENFORCEABILITY OF ANY PROVISION OF THIS AGREEMENT SHALL NOT AFFECT THE VALIDITY OR ENFORCEABILITY OF ANY OTHER PROVISION OF THIS AGREEMENT, WHICH OTHER PROVISIONS SHALL REMAIN IN FULL FORCE AND EFFECT.

22. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

23. Miscellaneous. No provision of this Agreement may be modified or waived unless such modification or waiver is agreed to in writing and signed by Executive and by a duly authorized officer of the Company. No waiver by either party hereto at anytime of any breach by the other party hereto of, or compliance with, any condition or provision of this Agreement to be performed by such other party shall be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time. Failure by Executive or the Company to insist upon strict compliance with any provision of this Agreement or to assert any right Executive or the Company may have hereunder, including without limitation, the right of Executive to terminate employment for Good Reason, shall not be deemed to be a waiver of such provision or right or any other provision or right of this Agreement. Except as otherwise specifically provided herein, the rights of, and benefits payable to, Executive, his estate or his beneficiaries pursuant to this Agreement are in addition to any rights of, or benefits payable to, Executive, his estate or his beneficiaries under any other employee benefit plan or compensation program of the Company.

IN WITNESS WHEREOF, the Company has caused this Agreement to be executed by a duly authorized officer of the Company and Executive has executed this Agreement as of the day and year first above written.

WESTAR ENERGY, INC.

By: /S/ BRUCE A. AKIN

Name: Bruce A. Akin
Title: Vice President, Business Services

By: /S/ DOUGLAS T. LAKE

Douglas T. Lake
Executive Vice President,
Chief Strategic Officer

The following non-employee members of the Board of Directors are executing this Agreement to evidence their approval thereof pursuant to a duly adopted resolution of the Company's Board of Directors.

/S/ FRANK J. BECKER

Frank J. Becker

/S/ GENE A. BUDIG

Gene A. Budig

Charles Q. Chandler, IV

/S/ JOHN C. DICUS

John C. Dicus

/S/ R.A. EDWARDS

R.A. Edwards

/S/ JOHN C. NETTELS, JR.

John C. Nettels, Jr.

Exhibit 99.1

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 906
OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of Westar Energy, Inc. (the Company) on Form 10-Q for the quarterly period ended September 30, 2002 (the Report) which this certification accompanies, each of the undersigned, in his capacity as a member of the committee appointed by the Board of Directors of the Company which is performing similar and equivalent functions to those performed by a principal or executive officer of the Company (the Committee), in my capacity as a member of such Committee, certify that the Report fully complies with the requirements of section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)) and that information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: November 14, 2002

By: /s/ DOUGLAS T. LAKE

Douglas T. Lake
Executive Vice President and Chief Strategic Officer
As a Member of the Committee

By: /s/ PAUL R. GEIST

Paul R. Geist
Senior Vice President,
Chief Financial Officer and Treasurer
As a Member of the Committee

By: /s/ LARRY D. IRICK

Larry D. Irick
Vice President, Corporate Secretary
As a Member of the Committee

By: /s/ RICHARD A. DIXON

Richard A. Dixon
Senior Vice President, Customer Operations
As a Member of the Committee

By: /s/ DOUGLAS R. STERBENZ

Douglas R. Sterbenz
Senior Vice President, Generation and Marketing
As a Member of the Committee

By: /s/ KELLY B. HARRISON

Kelly B. Harrison
Vice President, Regulatory
As a Member of the Committee

By: /s/ BRUCE A. AKIN

Bruce A. Akin
Vice President, Business Services
As a Member of the Committee

The forgoing certification is being furnished solely pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not be deemed filed by the Company as part of the Report or as a separate disclosure document for purposes of Section 18 or any other provision of the Securities Exchange Act of 1934, as amended.

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: John Wine, Chair
Cynthia L. Claus
Brian J. Moline

In the Matter of the Investigation of Actions	)
of Western Resources, Inc. to Separate its	) Docket No. 01-WSRE-949-GIE
Jurisdictional Electric Utility Business from	)
its Unregulated Businesses.	)

No. 51
ORDER REQUIRING FINANCIAL
AND CORPORATE RESTRUCTURING BY WESTERN RESOURCES, INC.

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The State Corporation Commission of the State of Kansas (Commission) finds that financial and corporate restructuring of Western Resources, Inc. (WRI)[1] is necessary to: (1) achieve a balanced capital structure within the public utility business controlled by or affiliated with WRI; (2) reduce the excessive debt accumulated due to investment in nonutility business ventures; (3) prevent interaffiliate accounting practices and relations that are harmful to WRI's public utility business; and (4) protect ratepayers from the risks of WRI's nonutility business ventures in the corporate family controlled by WRI.

By this Order, the Commission (1) rejects the plan proposed by WRI; (2) directs WRI to reverse certain accounting transactions; (3) directs WRI to transfer its KPL utility division to a utility-only subsidiary of WRI, after Commission review and approval of a plan to be submitted by WRI within 90 days of this Order; (4) institutes interim standstill protections to prevent harm to WRI's utility businesses as a result of their affiliation with WRI's nonutility businesses pending adoption of final requirements relating to such affiliation; and (5) institutes an investigation into the appropriate type, quantity, structure and regulation of the nonutility businesses with which WRI's utility businesses may be affiliated.

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1 All references to WRI refer to the entity now known as Westar Energy, Inc. All references to Westar Industries refer to Westar Industries, Inc. a wholly owned subsidiary of WRI.

I. Introduction and Overview

1. WRI is a holding company, providing electric service and owning stock in utility and nonutility businesses. At the holding company level, WRI provides retail electric service in parts of Kansas as KPL. WRI also provides retail electric service through its wholly owned subsidiary, Kansas Gas & Electric Company (KG&E). In total, WRI, including its subsidiary KG&E, provides retail electric service to approximately 636,000 customers in the state of Kansas. WRI and KG&E are both certificated electric public utilities subject to the jurisdiction of the Commission pursuant to K.S.A. 66-104 and 66-131. Collectively, WRI's electric businesses have been referred to in this proceeding as Western Resources Electric Business or WREB. WRI also owns 100 percent of Westar Industries, Inc., a holding company which owns several nonutility businesses, most prominently ONEOK and Protection One.[2]

2. Prior to 1996, WRI was almost exclusively an electric and natural gas public utility. As of December 31, 1995, WRI employed approximately $3.4 billion in total capital. WRI's capitalization at that time consisted of long-term debt in the amount of $1.4 billion, short-term debt in the amount of $0.2 billion and $0.1 billion in quarterly income preferred securities (QUIPs).[3] At that time, WRI had equity of $1.7 billion, which represented approximately 50 percent of its total capital structure. Proctor Direct at 7, 12-13, 20 and Staff Exhibit No. JMP-5.

3. Since 1996, WRI has employed incremental capital to invest in nonutility businesses. As of December 31, 2001, after taking into consideration and adjusting for an impairment charge of $0.65 billion during the first quarter of 2002 for two of its

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2 Additional information on WRI's corporate structure is contained in this commission's Order of July 20, 2001.

3 QUIPs are obligations to securities holders which have both debt and preferred equity characteristics. For Example, WRI may deduct for income tax purposes the dividends payable to the securities holder as interest expense.

nonutility subsidiaries, Protection One, Inc. (Protection One) and Protection One, Europe, WRI's consolidated debt and equity were $3.6 billion and $1.2 billion, respectively, for a total of $4.8 billion in capital. Without the impairment charge, WRI's total capital would have been $5.4 billion, including $1.8 billion of equity. Consequently, the equity component of WRI, on a consolidated basis, fell to approximately 25 percent of total capital. Proctor Direct at 7, 12-13, 20 and Staff Exhibit No. JMP-6.

4. WRI currently files consolidated financial statements that include the results and standing of Westar Industries, one of WRI's wholly-owned subsidiaries which currently holds WRI's investments in most of its nonutility businesses. Both WRI's regulated electric utility operations and its nonutility business ventures are represented in its consolidated financial statements. WRI also prepares consolidated financial statements for Westar Industries, consisting of the financial results and standing for its investment in ONEOK, Inc. (ONEOK), Protection One and other miscellaneous nonutility investments.

5. In Westar Industries' consolidated financial statements, as of December 31, 2001, WRI attributed only $0.5 billion of its $3.6 billion of consolidated debt to nonutility businesses. Proctor Direct at 9 and Staff Exhibit No. JMP-6. However, Commission Staff witness James Proctor found that only $1.5 billion of WRI's $3.6 billion consolidated debt was necessary to finance WRI's electric utility operations. He came to this conclusion by employing recognized financial techniques to estimate sources and uses of cash. The remaining $2.1 billion of consolidated debt, he found, was incurred and used to finance WRI's nonutility investments. Thus, a large amount of debt sits on the books of WRI (which is the

corporation in which the KPL utility division is located) that is properly attributable to Westar Industries and its nonutility businesses.

6. Under these circumstances, if there were a corporate reorganization in which Westar Industries was separated from WRI, the present allocation of debt and equity between the two entities would become permanent. The capital structure of WRI's nonutility businesses would have received $1.6 billion of equity from WRI's regulated electric utility operations. Conversely, WRI's actions would have resulted in $1.6 billion of consolidated debt attributable to nonutility businesses being charged to the regulated utility operations. Proctor Direct at 6-7 and Staff Exhibit No. JMP-1.

7. These were the circumstances, among others described in detail in the Commission's Order of July 20, 2001, that led the Commission to expand the scope of its investigation and require WRI to file a new financial plan, aimed at reducing debt, correcting the misallocation of debt between the utility and nonutility businesses, and reforming the manner in which WRI's affiliates interact.

II. Procedural Summary

8. On May 8, 2001, the Commission entered its Order Initiating Investigation. The investigation would address

> whether the participation by WRI and its affiliates in the transactions and relationships described herein, and any other transactions or relationships which may emerge from the investigation, is consistent with Kansas law, including WRI's and KG&E's statutory obligations to provide efficient and reliable service to Kansas customers at just and reasonable rates.

May 8, 2001 Order at 18.

9. On July 20, 2001, the Commission entered its Order that determined that WRI's participation in certain restructuring transactions described in that Order was not consistent with the public interest and contrary to Kansas law. The Commission made permanent the prohibition on consummating those transactions through a "Rights Offering" that would result in a permanent misallocation of the debt and assets within the WRI corporate family as set forth in the Commission's July 20, 2001 Order at 13-20. The Commission specifically declared that the Asset Allocation and Separation Agreement (Asset Allocation Agreement) between WRI and its wholly-owned subsidiary, Westar Industries, through which the misallocation of assets and debt was established was null and void. July 20, 2001 Order at Ordering ¶¶ (B)-(F).

10. The Commission's July 20, 2001 Order further required WRI to submit a financial plan to restore WRI to financial health, to achieve a balanced capital structure and to protect ratepayers from the risks of nonutility investments. July 20, 2001 Order at Ordering ¶ G. In judging the reasonableness of a proposed financial plan, the Commission proposed to evaluate not only financial plans but also accounting practices under the following two important criteria. That is, WRI and any financial plan must:

> i. include an equitable allocation of assets and liabilities among WRI, WREB and WRI's other unregulated businesses based on principles consistent with the manner in which electric and non-electric assets and operations were funded historically; and,
>
> ii. protect WREB's utility customers from harm caused by WRI's investment in unregulated businesses.

11. On November 6, 2001, WRI filed a Financial Plan in response to the July 20, 2001 Order. WRI amended the Financial Plan on January 29, 2002. During the same

time, WRI sought judicial review of the July 20, 2001 Order and the October 3, 2001 Order on Reconsideration in the District Court of Shawnee County, Kansas. Case Nos. 01-C1190 and 01-C1387.

12. On January 8, 2002, the Commission expressly expanded its inquiry to assess the impact of and risks associated with WRI's interest in or affiliations with nonutility business activities on WRI's jurisdictional electric utility business. The Commission invited comments on whether the Commission should adopt standards or guidelines for affiliate relationships to avoid subsidization of nonutility services or products by the regulated operations. The Commission also sought information on whether accounting guidelines or criteria can effectively evaluate, measure and monitor the impact of the financial condition of the holding company on the regulated electric operations (termed WREB); whether accounting procedures and practices are in place to correctly and equitably record and disclose affiliate transactions; whether accounting procedures and practices are in place to accurately report assets owned and liabilities attributable to the electric operations. The January 8, 2002 Order authorized discovery to facilitate the investigation and provide Commission staff (Staff) and other intervening parties a meaningful opportunity to participate.

13. On February 12, 2002, the Commission, noting the Shawnee County District Court's dismissal of WRI's petitions for judicial review and remand, established a procedural schedule for the investigation. The Commission reiterated its two main concerns: First, WRI's assignment to the electric business of debt used for financing of nonutility business investments and operations creates a misallocation of debt between WRI's electric business and its nonutility businesses. Second, WRI's diversification and

affiliation with nonutility businesses having stranded investments and other operating difficulties can harm WRI's ability to provide sufficient and efficient electric service at just and reasonable rates. The Commission also directed WRI to explain whether recent actions taken by WRI to pledge KG&E assets as security for WRI debt and to sell or transfer significant utility assets violate the restrictions of the July 20, 2001 Order that WRI refrain from taking any actions that increase the share of debt attributable to WRI's electric businesses, including entering into any affiliate agreements which violate this principle.

14. On March 26, 2002, the Commission issued an Order that WRI had violated the July 20, 2001 Order by selling the KG&E office building located in Wichita, Kansas, to an affiliate at below book value contrary to Ordering Clauses (B), (C) and (D), of the July 20, 2001 Order. The Commission required WRI to accrue estimated cost of service savings that WRI attributed to the sale of the building. The Commission reserved the appropriate rate treatment for final determination in a subsequent WRI rate proceeding.

15. On April 19, 2002, WRI submitted prefiled written direct testimony for Messrs. David C. Wittig, Paul R. Geist and Arthur H. Tildesley addressing a proposed rights offering, as presented in its amended Financial Plan. On May 23, 2002, Staff submitted prefiled direct testimony for Messrs. James M. Proctor and Jeffrey D. McClanahan; the Citizens' Utility Ratepayer Board (CURB) submitted prefiled direct testimony for Messrs. Stephen G. Hill, J.Randall Woolridge and Ms. Andrea C. Crane; Kansas Industrial Consumers (KIC) submitted prefiled direct testimony for Messrs. John C. Dunn and James R. Dittmer; and MBIA Insurance Corporation (MBIA) submitted

prefiled direct testimony for Ms. Kara Silva and Messrs. Frank D. Stern, Louis G. Dudney, Steven T. Almrud, and Thomas B. Hensley, Jr. On June 18, 2002, WRI submitted prefiled rebuttal testimony of Mssers. Wittig, Geist, Tildesley, Michael J. Stadler, Richard A. Dixon, Greg A. Greenwood and Ms. Peggy S. Loyd. On the same date, several witnesses on behalf of Staff, CURB, KIC and MBIA submitted prefiled cross answering and rebuttal testimony.

16. On July 2, 3, 5, and 8-11, 2002, the Commission conducted hearings. The following appearances were entered: Ms. Susan B. Cunningham, General Counsel, and Ms. Anne Bos, Assistant General Counsel on behalf of Staff; Messrs. Martin J. Bregman, Executive Director, Law, Westar Energy, Inc., Larry M. Cowger, Director, Law, Westar Energy, Inc. and Michael C. Lennen on behalf of WRI; Mr. Walker Hendrix and Ms. Niki Christopher, Consumer Counsel, on behalf of CURB; Messrs. Joe Allen Lang, First Assistant City Attorney and Jay Hinkle on behalf of the City of Wichita, Kansas (Wichita); Ms. Sarah J. Loquist on behalf of Unified School District 259, Wichita, Kansas (U.S.D. 259); Mr. James P. Zakoura of behalf of KIC; Messrs. Karl Zobrist, J. Dale Young and Ms. Glenda Cafer on behalf of MBIA; Mr. James G. Flaherty on behalf of Aquila, Inc. and Messrs. James G. Flaherty, Eric Grimshaw, Vice President and Associate General Counsel, ONEOK, Inc. and John P. DeCoursey, Director of Law, Kansas Gas Service Company, a division of ONEOK, Inc. on behalf of ONEOK, Inc. (ONEOK).

17. On July 2, 2002, ONEOK, WRI, Westar Industries, Staff, CURB and MBIA (collectively referred to as Movants) filed a Joint Motion Approving Partial Stipulation and Agreement. The Movants requested the Commission to issue an order

authorizing WRI/Westar Industries to sell its ONEOK Stock in accordance with the terms of the Shareholder Agreement between ONEOK and WRI and authorizing ONEOK, should it elect to do so, to purchase the ONEOK stock from WRI/Westar Industries. On July 9, 2002, the Commission asserted jurisdiction over the subject matter of the Partial Stipulation and Agreement and conditionally approved the Partial Stipulation and Agreement. The Commission's approval was conditioned on WRI's commitment that the proceeds from any sale of the ONEOK stock held by Westar Industries to ONEOK or to any other third party, be in cash and that such cash proceeds be used to decrease WRI's consolidated debt without WRI incurring any intercompany payable to Westar Industries.

III. The Commission Rejects WRI's Financial Plan Because it Compounds, Rather Than Addresses, WRI's Underlying Problems.

18. The July 20, 2001 Order rejected, as unlawful and contrary to the public interest, WRI's proposed Asset Allocation Agreement, the rights offering for Westar Industries' stock and the split-off of Westar Industries (which at the time held WRI's interest in nonutility businesses) from WRI to WRI shareholders. The Commission found that the effects of these proposals would be to burden WRI (which after the split-off of Westar Industries to WRI shareholders would consist only of WRI's electric business) with substantial debt related to nonutility, business activities for which debt WRI would be legally responsible. After the split-off of Westar Industries, WRI would then be burdened with the large debt related to its investments held in Westar Industries and be unable to avail itself of Westar Industries' assets to retire the Westar Industries-related debt held by WRI. July 20, 2001 Order at ¶¶ 25-28.

19. Distinct from the problems posed by the proposed split-off, the Commission found that WRI's "junk bond" credit rating was inconsistent with its public service

obligations and that the situation required more than mere improvement to “investment grade.” July 20, 2001 Order at ¶¶ 42, 58, 64, 85. The Commission stated “[f]ailure to achieve a bond rating similar to comparable utilities will mean higher interest rates.” *Id.* at ¶ 42.

20. In rejecting WRI’s proposal due to the potential for harm to ratepayers and the public interest, the Commission explained that it was not obligated by statute to wait for ratepayer harm to occur before acting. July 20, 2001 Order at ¶ 26. The July 20, 2001 Order therefore directed WRI to present a plan, consistent with the prohibitions and parameters set forth in that Order, to restore WRI to financial health, to achieve a balanced capital structure and to protect ratepayers from the risks of the nonutility business. July 20, 2001 Order at 1.

21. WRI did submit a proposal, which is the subject of the instant proceeding. The Commission finds that this new proposal reasserts WRI’s design and intent to separate Westar Industries and WRI in a manner harmful to the utility business and its ratepayers. This ill-designed separation would leave WRI with the electric utility business encumbered by $1.6 billion dollars in nonutility debt incurred for the benefit of the nonutility investments of Westar Industries. In its July 20, 2001 Order the Commission found, *inter ali*a, that “[t]he resulting debt-equity imbalance in WRI harms WREB and its customers.” July 20, 2001 Order at ¶ 11. As explained further below, WRI’s present plan does not address the harm which the Commission ordered WRI to avoid, but confirms WRI’s intent to proceed in a manner that the Commission has already found to be harmful and contrary to the public interest.

A. WRI’s Plan

22. WRI's Plan encompasses two stages. Wittig Direct at 3-4. In the first stage, WRI would offer each WRI shareholder the right to purchase one share of Westar Industries' common stock for every three shares of WRI's stock held on the date of the offering (the "rights offering"). The shares to be sold would range from a minimum of 4.14 million shares (approximately 5.1 percent of outstanding Westar Industries shares) to a maximum of 19.1 million shares (approximately 19.9 percent of outstanding Westar Industries shares). Wittig Direct at 3. The proceeds from the rights offering would be used by Westar Industries to purchase currently outstanding WRI or KG&E debt securities in the market. Wittig Direct at 6.

23. In the second stage, WRI proposed to use its "best efforts" to sell the Westar Industries shares it owns, shares of WRI stock, or a combination of these types of shares, in order to reduce WRI's short and long term debt to $1.8 billion. Wittig Direct at 4. The sale of equities would be triggered if Westar Industries' shares close for 45 consecutive trading days at a price that is 15 percent above the price necessary to reduce the debt to an amount less than $1.8 billion based on the debt reported in the most recent SEC Form 10-K or 10-Q. This sale would not occur prior to February 2003. *I*d.

24. WRI states that two features of the plan reduce the price for Westar Industries stock that would be necessary to trigger the sales obligation: (1) the level to which WRI's consolidated debt would need to be reduced in order to trigger the second stage of the plan would be increased by $100 million on each anniversary of Westar Industries' rights offering; and (2) WRI commits to reduce its debt by $100 million provided by cash flow each year following the completion of the rights offering until the

separation of Westar Industries is consummated. Wittig Direct at Exhibit DCW-1; Exhibit A; Amended and Restated Financial Plan at 15. This latter debt reduction would be in addition to the debt reduction effected by Westar Industries' rights offering and the second-stage equity sales. *Id.*

B. The Commission's July 20, 2001 Order

25. In the July 20, 2001 Order, the precursor to the instant proceeding, the Commission considered WRI's actions to separate the nonutility business activities of WRI through a rights offering for stock in Westar Industries and a subsequent distribution or "split-off" of Westar Industries through WRI's distribution of its shares in Westar Industries to WRI's shareholders. As part of that plan, WRI transferred assets to Westar Industries without allocation of all debt related to the funding of those assets. After completion of WRI's planned rights offering and subsequent distribution of Westar Industries' common stock to WRI shareholders, Westar Industries would have owned a substantial interest in WRI common stock. WRI would then have been left essentially with only an electric utility business and all of the consolidated debt issued by WRI for funding the utility and nonutility businesses.

26. The July 20, 2001 Order found that a fundamental problem with WRI's plan was that the rights offering for and subsequent split-off of Westar Industries from WRI was based upon a misallocation of assets and debt as required by the Asset Allocation Agreement between WRI/Westar Industries and the Public Service Company of New Mexico (PNM). However, as the Order explained, the assignment of assets and debt within WRI's consolidated group might not have a deleterious effect on the regulated electric utility operations since, without a rights offering for and split-off of Westar

Industries, WRI would continue to own 100 percent of Westar Industries' common stock. However, WRI's planned rights offering for and split-off of Westar Industries' stock would have rendered the misallocation of assets and debt permanent. The July 20, 2001 Order summarized the inherent problem of the misallocation of assets and debt and the unjust enrichment of Westar Industries at ¶ 24:

> In sum, all of the Transactions are designed to ensure that at the time of the split off, WRI's electric business will hold significant debt but no Westar [Westar Industries] assets, while Westar will own all of WRI's unregulated assets but will not be responsible for WRI's long-term debt used to acquire them.

27. The Order further explained why such a misallocation of debt would harm WRI's ability to perform its public utility obligations under Kansas law. July 20, 2001

Order at ¶¶ 25-30. The Commission therefore ordered WRI to, *inter ali*a,

> submit a financial plan to restore WRI's financial ratings to the investment grade level of similarly situated electric public utilities. This restoration will require WRI to address the various causes of the problem, including the financial difficulties created by its unregulated businesses.

*I*d. at ¶ 85. The Commission further specified at ¶ 85 that the plan must be directed to restoring "WRI's financial ratings to an investment grade level of similarly situated public utilities."

C. Permanent Misallocation of Assets and Debt

28. WRI's allocation of assets and debt to Westar Industries — which the July 20, 2001 Order found contrary to the public interest — would not be corrected by the new plan. To the contrary, WRI's new plan, like the original plan, would make this misallocation permanent.

29. Under the November 6, 2001 Financial Plan, as amended, WRI proposes that Westar Industries make a rights offering of its common stock to WRI's shareholders. The rights offering would initiate events that would ultimately confirm, and make permanent, the misallocation of assets and debt to Westar Industries. The execution of WRI's present proposal would result in a separation of Westar Industries from WRI, with a misallocation of debt and assets substantially identical to the misallocation of assets and debt provided in the Asset Allocation Agreement. Yet, the July 20, 2001 Order rejected the Asset Allocation Agreement and its misallocation of assets and debt as contrary to WRI's public service obligations.

30. As shown by the analysis of Staff witness Proctor, as of year end 2001, WRI attributed to Westar Industries approximately $0.48 billion (17 percent) debt and $2.30 billion (83 percent) equity. Proctor Direct at 9 and Staff Exhibit No. JMP-1. Based on data provided by WRI, Proctor found that this would leave WREB, as a stand alone company, with a capital structure containing $3.11 billion (117 percent) debt and negative $0.45 billion (negative 17 percent) equity as of December 31, 2001. Proctor Direct at 14.

31. However, applying appropriate discounted cash flow analyses and equity funding analyses to the allocation of debt from WRI to Westar Industries demonstrates that WRI should attribute approximately $1.47 billion of debt to WREB. Proctor Direct at 14-15, Staff Exhibit No. JMP-2, Schedule No. 3. Based on this testimony, the Commission therefore finds that WRI failed to properly allocate the assets and debt within the WRI corporate family, and has attempted through its Financial Plan to assign approximately $1.63 billion of debt attributable to nonutility business activities to WRI's

regulated utility operations. Leaving this $1.63 billion of debt with WRI after the proposed rights offering for and subsequent sale of Westar Industries' stock (the second stage of WRI's Financial Plan) would mean that WRI's electric business (the only WRI assets remaining) would become financially responsible for debt incurred to finance the nonutility business investments transferred to Westar Industries. To make WRI's electric utility operations carry this $1.63 billion of debt burden, used to fund Westar Industries' nonutility business activities, is not consistent with WRI's public service obligations. Proctor Direct at 14.

32. Put in terms of the capital structure, WRI's misallocation of debt and assets would leave WRI's electric utility business, if viewed as a stand-alone company, with a capital structure ratio of 117 percent debt and negative 17 percent equity. Conversely, WRI's proposed capital structure for Westar Industries is unjustly enriched with 83 percent equity. Such a capital structure does not accurately represent the negative effects of deficient cash flow related to WRI's unprofitable investment in Protection One. Proctor Direct at 11. For example, in the first quarter of 2002, WRI's equity was decreased by approximately $0.65 billion because of an impairment charge (equity write-off) for Protection One and Protection One Europe. Proctor Direct at 22.

33. Had the allocation within the WRI corporate family been made consistent with historic financial requirements of the business operations, WRI's electric utility business would have a capital ratio of 55 percent debt ($1.47 billion) and 45 percent equity ($1.18 billion). WRI's electric utility business, at the rates legally established by this Commission and by the Federal Energy Regulatory Commission, without any misallocation of assets and debt between the utility and nonutility affiliates, generated

sufficient cash that the proper capital structure to attribute to WRI's electric utility business is the one described by Proctor, not the one proposed by WRI in its Financial Plan. Proctor Direct at 11, 13-15. The Commission finds that the capital ratio presented by Staff witness Proctor is an accurate representation of WRI's actual operational experience for its regulated electric businesses.

34. WRI asserts that Proctor's "allocation of debt will be arbitrary since the legal obligation to repay any particular loan instrument will not change." WRI Initial Brief at 64. WRI misunderstands the point. The Commission does not view Proctor's cash flow analyses as intended to suggest a change in the legal location of the indebtedness. Rather, Proctor's analysis explains how this very legal location represents the misallocation of debt and assets within the WRI corporate family under WRI's proposed plan.

35. WRI, through the testimony of its witness Paul Geist, takes issue with Proctor's cash flow analyses. Geist testified that one cannot "...trace the money..." or "...track the flow of funds... from source to use..." Geist Rebuttal at 5 and 7. However, Geist misstates or misunderstands Proctor's analyses. Proctor agreed that analysts cannot track the specific source for one dollar to its specific use in a diversified corporation, and he did not purport to have done so. Proctor Direct at 14. Proctor explained, however, that it is not necessary to do so to estimate the sources and uses of cash funds within a diversified company in an aggregated and ultimately, disaggregated basis. Proctor Direct at 14.

36. In support of this position, Proctor explained that diversified companies such as WRI receive funding from multiple sources *(e*.g., customer payments, stock

offers, debt issuances) and use the funding for multiple purposes *(e.g.*, purchasing supplies, investing in capital assets, providing customer service — and all for more than one business activity). It is difficult or impossible to know whether, for example, a particular dollar raised from a particular debt issuance or customer payment went, to the purchase of a particular supply item or the investment in a particular piece of equipment. However, companies can determine the total amounts of funding received from each source *(e.*g., customer payments, debt and stock issuances) and the total amount expended on objects of expenditure *(e.*g., supplies, customer service, investment, operating expenses). In fact, cash flow analyses are regularly and routinely employed by corporate finance experts to perform such tasks or analyses in evaluating businesses and business investments. Proctor Direct at 14-15.

37. Proctor further explained that WRI itself performs cash flow analyses on a consolidated and deconsolidated basis. In order for WRI to prepare cash flow statements for Westar Industries, it needs to separate the sources and uses of WRI's consolidated cash flow between WRI and Westar Industries. Proctor makes clear that the separation of the sources and uses of WRI's consolidated cash flow between WRI and Westar Industries is the same task that he performed for this proceeding. Proctor Direct at 14-15. In addition, Proctor explained, as shown in Staff Exhibit No. JMP-2, that a cash flow analysis for WRI's electric business is the difference between the cash flow analysis for WRI and the one for Westar Industries.

38. The Commission concludes that Proctor's approach is reasonable and appropriate for evaluating the capital structures proposed under WRI's plan. In short, because WRI has, as discussed herein and in the July 20, 2001 Order, placed the

nonutility activities in Westar Industries and left WRI with the electric operations, the construction of a cash flow analysis for WRI's electric operations, can be derived from a comparison of the data available for WRI with that of Westar Industries.

39. WRI further argues that it was arbitrary for Proctor to begin the cash flow analyses with the calendar year 1998. Geist Direct at 12. Proctor explained that he had reviewed the capital structure for WRI's electric operations as of December 31, 1997, in a prior docket, and found the capital structure at that time to be representative for WRI's electric utility business, as a stand-alone company. Proctor Direct at 12. Proctor checked his cash flow analysis with an alternative, an equity funding method that employed financial data back to 1995. Proctor Direct at 17-21. Proctor's alternative analysis resulted in an estimated $1.56 billion for the amount of debt incurred by WRI for the benefit of Westar Industries, compared to the $1.63 billion estimate derived by his discounted cash flow analyses. Proctor Direct at 17. Proctor stated that the results are sufficiently close to lend support to the discounted cash flow analyses. The Commission agrees and concludes that Proctor's cash flow analyses presented reasonable and accurate representations of what the capital structure would have been for WRI's electric utility operations, as a stand alone company, absent the misallocation of assets and debt through interaffiliate transactions.

40. In sum, the Commission must reject any proposal that is based and perpetuates the misallocation of debt and assets between utility and nonutility businesses.

41. WRI seeks to justify its Financial Plan, as amended, in terms of the debt reduction potential. But the Plan would obtain that debt reduction using the very devices that make the misallocation permanent: Westar Industries' rights offering and WRI's

subsequent sale of WRI's investment in Westar Industries' stock. There is substantial uncertainty as to whether the rights offering by Westar Industries and subsequent sale by WRI of its investment in Westar Industries' stock will produce the cash envisioned by WRI. That is, WRI cannot guarantee that the market value for Westar Industries' stock will generate sufficient proceeds to reduce WRI's consolidated debt to an appropriate level.

42. In contrast to the uncertainty over the amount of debt reduction, there is certainty that Westar Industries' rights offering and WRI's subsequent sale of WRI's investment in Westar Industries' stock will make permanent the present misallocation of assets and debt. Only if the cash proceeds envisioned by WRI are achieved will that misallocation be decreased. WRI's Financial Plan, if successful, requires it to decrease debt to $1.8 billion. However, WRI's Financial Plan would still leave WRI and its utility businesses with $0.3 billion greater debt than appropriate. The Commission may not adopt a plan that subjects WRI to definite adversity, in the hopes that this adversity will be overcome by uncertain cash flow from a rights offering and sale of Westar Industries' stock. For this reason alone, the Commission must reject WRI's debt reduction plan. The facts on which the Commission bases its findings of uncertainty as to the cash proceeds are discussed next.

D. Undue Ratepayer Risk and Substantial Uncertainty

43. As the Commission's July 20, 2001 Order stated, restoration of WRI's financial health means not merely a bond rating of investment grade, but a bond rating comparable to utilities facing similar utility-related risks. July 20, 2001 Order at ¶¶ 42

and 85. The record shows that WRI's rights offering plan will, assuming it is successful as proposed, still leave WRI with too much debt.

44. WRI's Financial Plan, as amended, proposes a reduction of debt to $1.8 billion which, because it does not include all of WRI's consolidated debt (the QUIPs obligation to securities holders of $0.2 billion was omitted), is properly seen as a reduction to $2 billion in consolidated debt. Proctor Direct at 48. Even if WRI's plan, with its proposed reduction to $2 billion in debt, were achieved, WRI would have a capital structure of more than 68 percent debt, and less than 32 percent equity. Proctor Direct at 48 and Staff Exhibit No. JMP-10, Schedule No. 2. This ratio is well above the debt to equity ratio typical for an electric public utility. Dittmer Direct at 10. The average common equity ratio for electric public utilities located in the Midwest is approximately 44.5 percent. Dittmer Direct at 10, citing Value Line Investment Survey for 2002, Central Electric Utility Group, April 5, 2002, at 695. Moreover, successful implementation would, in fact, decrease WRI's cash flow for the years 2003 and 2004 by $27.6 million and $66.5 million, respectively. Proctor Direct at fns. 56-57, Staff Exhibit No. JMP-10, Schedule No. 1.

45. The record shows that WRI's plan — even if it works as WRI states — would fall hundreds of millions of dollars short of the debt reduction embodied in alternative proposals presented to the Commission. Furthermore, WRI's plan would likely result in a capital ratio still excessively weighted with debt, as compared to other proposals. Because there are other alternatives working in combination, as discussed below, that are substantially more likely to produce the required results, and substantially

less likely to fall short and thereby perpetuate the ongoing damage to the public interest, the Commission must reject WRI's Financial Plan, as amended.

46. In summary: Adopting WRI's Plan would subject ratepayers to substantial risk and uncertainty that WRI will ever resolve its financial problems, while impairing its ability to provide sufficient and efficient electric service at just and reasonable rates. Even if WRI's Financial Plan, as amended, meets its stated goals, the Plan would neither achieve debt reduction sufficient to correct the misallocation of debt and assets, nor bring WRI's debt-equity ratio in line with that of other public utilities. These deficiencies, as well as the permanent misallocation of assets and debt within the WRI corporate family described above, require the Commission to reject the proposed plan as inconsistent with WRI's public service obligations.

E. Commission Inaction Not Supported by WRI's Arguments

47. According to WRI, the record demonstrates that WRI has not been imprudent, that there are no parties asserting that WRI has engaged in fraud, that WRI has reduced rates in recent years, that WRI's embedded cost of debt has not increased, that there is no credible evidence of cross-subsidization, that WRI's stock has outperformed the Dow Jones Utilities average (and Empire District Electric Company, Great Plains Energy, and Aquila) in the last two years, and that electric service has been provided reliably and will be provided reliably in the foreseeable future. WRI Initial Brief at 1-3, 16-18, 33-47, and 64-68; WRI Reply Brief at 1-5, 21-25,28-29, and 36-46. WRI states that: "[t]here simply is no evidence in this record upon which the Commission can base a proper finding…that any customer or creditor of the Company has been harmed in any way." WRI Reply Brief at 5.

48. These arguments do not address the circumstances that require Commission action; nor do these arguments address the factual underpinnings of the July 20, 2001 Order. As stated above, it is undisputed that WRI's debt is excessive and its credit deficient. The record demonstrates that the adverse financial condition in which the electric utility businesses find themselves was caused by WRI's nonutility investments and use of the regulated utility to support nonutility activities. These realities, again, underlay the Commission's July 20, 2001 Order, which directed WRI to

> present a plan, consistent with the foregoing prohibitions and parameters set forth in this Order, to restore WRI to financial health, to achieve a balanced capital structure, and to protect ratepayers from the risks of the nonutility business.

July 20, 2001 Order at ¶ 42.

49. The Commission need not wait for harm to occur in the form of increases in rates or decreases in reliability. The Commission instead can draw reasonable inferences from the facts in the record. It can reasonably conclude, and does so here, that a capital structure with excess debt, in place for well over a year, in a context where the company not only has not corrected the situation but has proposed measures which are likely to leave the debt problems on the books of the utility, will cause harm to the electric utility business and its customers.

50. WRI also argues that it recently refinanced some of its debt without increasing its embedded cost of debt. WRI Initial Brief at 35. But a refinancing that did not result in an increase in embedded debt cost is not surprising where interest rates have declined to the lowest levels in years. The embedded cost could have and should have been lower if WRI's credit rating had been better. Dunn Direct at 11-12.

51. Also, WRI states that its Protection One subsidiary has experienced positive cash flows in the past two years. WRI Initial Brief at 18. However, the Commission believes that merely examining Protection One's cash flow for the past two years does not provide a complete understanding of the negative effect of Protection One's historic, deficient cash flow and operating losses on WRI. According to KIC Exhibit No. 23 (Protection One SEC Form 10-K for 23 period ending December 31, 2001, at 16), Protection One had losses in 1997 of $42.3 million; in 1998 of $17.8 million; in 1999 of $80.7 million; in 2000 of $57.2 million; and in 2001 of $86.0 million. As evidenced by Protection One's historic operating losses for 1997 through 2001 and by Protection One's equity write-off in the first quarter of 2002, WRI's investment in Protection One has had a substantial negative impact on WRI's capital structure.

52. In sum, the record compels rejection of WRI's proposed plan, and the Commission hereby does so. The Commission is statutorily obligated to protect the public interest in reliable, safe, and efficient electric operations at just and reasonable rates. The continued existence of the conditions identified in the July 20, 2001 Order precludes any finding that WRI's current conduct is consistent with its statutory obligations to serve the public. Further, the continued existence of the misallocation of debt and assets among the WRI corporate family would unjustly enrich the nonutility businesses of Westar Industries at the expense of WRI's regulated electric operations and continues to provide WRI with incentive to propose financial plans inconsistent with the public interest and contrary to the directives of the July 20, 2001 Order.

IV. WRI Must Reallocate and Reapportion Debts and Assets Equitably Within the WRI Corporate Family and Separately Incorporate the Jurisdictional Electric Operations as a subsidiary of WRI.

A. The Commission's Authority and Responsibility to Fashion a Remedy To Protect Utility Interests

53. An understanding of the Commission's legal authority and responsibility to respond to the WRI problems presented by this record is best obtained by reviewing first the legal context, and then the factual context. Each is discussed next.

1. The Legal Context

54. Kansas law provides the Commission with broad authority and obligation to oversee and protect the integrity of utilities that serve Kansas ratepayers. Pursuant to K.S.A. 66- 101, the Commission "is given full power, authority and jurisdiction to supervise and control the electric public utilities . . . doing business in Kansas and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction." K.S.A. 66-101(d) provides the Commission with investigatory powers: "If after investigation and hearing it is found that any regulation, measurement, practice, act or service complained of is unjust, unreasonable, unreasonably inefficient or insufficient, unduly preferential, unjustly discriminatory, or otherwise in violation of this act or of the orders of the commission the commission shall have the power to substitute therefore such other regulations, measurements, practices, services or acts, and to make such order respecting any such changes in such regulations, measurements, practices, services or acts as are just and reasonable." K.S.A. 66- 101(h) provides that the Commission "shall have general supervision of all electric public utilities doing business in this state and shall inquire into any neglect or violations of the laws of this state." The section further provides that, "the commission shall carefully examine and inspect the condition of each electric public utility, its equipment, the manner of its conduct and its management with reference to the public safety and

convenience.” K.S.A. Section 66-101(g) provides that “the provisions of this act and all grants of power, authority, and jurisdiction herein made to the commission, shall be liberally construed, and all incidental powers necessary to carry into effect the provisions of this act are expressly granted and conferred upon the commission.” This statutory authority supports the Commission’s actions taken in this order.

55. WRI, in contrast, argues that: (1) the existence of statutory provisions addressing affiliated interests, as set forth in the Holding Company Act and K.S.A. 66-125, shows that Commission authority does not extend to securities issuances of nonutility subsidiaries of public utilities, Initial Brief at 20, 24; (2) Commission action to prohibit the rights offering is “an inappropriate invasion of management prerogative and authority,” Initial Brief at 26; (3) the Commission does not have broad jurisdiction over transactions that “may affect” jurisdictional utilities, Initial Brief at 29; and (4) the Commission has no authority to invite third party intervenors to propose business plans for WRI, Initial Brief at 32.

56. WRI’s argument distills to the following principle: The Commission has no authority to protect a jurisdictional utility from harm where the source of that harm consists of activities of the utility’s affiliates or its holding company, even where utility and nonutility activities are under identical management and even where that management has a history of putting the utility’s financial condition at risk by proposing to shift utility equity to the nonutility businesses and leaving the utility with an equity-debt ratio which deviates severely from the utility’s historic capital structure and the capital structure of typical utilities. The Commission disagrees. The Commission’s statutory power and obligation to assure service is sufficient and efficient at just and

reasonable rates does not allow the Commission to look away from this situation, out of respect for a “management prerogative” not specified in statute. Under WRI’s statutory reading, a utility could defeat the Commission’s comprehensive regulatory authority by arranging relations with a holding company and affiliates such that the harm which the Commission is required to prevent, pursuant to its statutory duty to assure just and reasonable, efficient and sufficient service, has as its source a nonutility entity.

57. WRI argues, Initial Brief at 9-25, that the Commission’s authority under K.S.A. Section 66-101 is limited by further statutory provisions. WRI focuses on K.S.A. 66-125 (issuance of securities); K.S.A. 66-1401 (jurisdiction over holding companies; affiliated interests defined); K.S.A. 66-136 (franchise transfers); K.S.A. 66-1402 (submission of contracts with affiliated interests); and K.S.A. 66-1214 (dividend payments). *See also* WRI Reply Brief at 9- 10. WRI does not show where and how the broad authority and statutory obligations stated in K.S.A. 66-101 are diminished by statutory language that clearly supplements, rather than supplants, Commission authority. Under WRI’s reading, the Commission must look the other way when the cause of harm to the utility is an activity or entity regulated by another provision, even when the activity or entity is controlled by the same management that controls the utility. The statutory language does not support this reading. K.S.A. 66-1401 and 66-1402 are reporting requirements intended to supplement the Commission’s authority and assist the Commission in stopping abusive inter-affiliate relations that are harmful to the public interest. Similarly, K.S.A. 66-1214 does not limit the Commission’s authority to prohibit dividends, but rather, states the procedures to be employed in doing so. Likewise, K.S.A. 66-125 is a reporting provision intended to accommodate the faster-paced financing

transactions in today's business world while providing the Commission financial information about the public utility.

58. Finally, with regard to K.S.A. 66-136, a statute that provides the Commission broad authority over all matters affecting the provision of utility service, WRI argues that case law has limited the applicability of the statute. Citing *Kansas Electric Utilities Company v. Kansas City, Kaw Valley & Western Railway Company* 108 Kan. 285, 289 (1921)(*Kaw Valle*y), WRI argues that the statute does not extend the Commission's approval authority to contracts that "may affect" the public utility. However, in that case, the contract at issue involved an unaffiliated business, and not, as here, an affiliated company. *Kaw Valley* did not involve circumstances where, as here, all the relevant entities are affiliates; nor did it address entities and their managements that mixed utility and nonutility interests to the detriment of the public utility. Even so, the decision on rehearing in *Kaw Valley* shows that the outcome might have been different had further factual showing been made regarding the effect on the regulated entity. The majority court stated that the trial court's factual determination on whether K.S.A. 66-1336 was triggered was correct. *I*d. at 292. On rehearing, the majority court summarized its understanding of the facts, finding that the "contract carries into effect the defendant's franchise and does not assign, transfer, or lease it, nor any part of it, nor refer to or affect it, nor modify, restrict, or defeat its operation." *I*d. at 299. The point is further illustrated from the dissenting opinion where the dissenting court argued that the majority court's decision was based upon a misconception of the facts that would have required Commission approval under K.S.A. 66-136. *Id.* at 301. There was no disagreement

between the majority and dissenting court on whether the public utility had the right to harm its ability to perform its public service obligations. No such right existed. *Id.* at 301.

59. WRI further argues, Initial Brief at 26, that Commission action to remedy the financial difficulties of record here would “fundamentally constitute[s] an inappropriate invasion of management prerogative and responsibility.” Regulatory deference to a management decision might be appropriate where the management decision at issue is: (i) a reasonable response to the utility’s obligation to provide just and reasonable, efficient and sufficient service, and (ii) not subject to a conflict in goals between utility and nonutility activities. As the Commission explained above, these conditions do not exist here.

60. In support of its “management prerogative” argument, WRI, Initial Brief at 26, relies on *Wichita Gas Co. v. Public Service Commissio*n, 126 Kan. 220, 268 P. 111 (1928) and *Sekan Electric Cooperative Association, Inc. v. State Corp. Commissio*n, 4 Kan. App. 2d 477, 480, 609 P.2d 188 (1980). Neither of these cases, or any of the further cases cited by WRI, involved showings that utility operations were prejudiced or harmed by management’s operations from nonutility affiliates.

61. *Wichita* was a rate dispute in which the Court rejected the views of the Commission’s expert as to the time period over which an item should be expensed. *Wichita* did not address circumstances where utility financing was distorted to benefit nonutility activities; nor did it address circumstances where management (of both utility and nonutility activities) persists in decisions that are shown to be contrary to the utility interest. In *Wichit*a, in regard to Commission argument that the utility overpaid for gas from an affiliated entity, the Court noted that, “[i]t is impossible to declare, on the meager

record in this case, either agency or abuse of corporate privilege, in the relation between the Kansas gas companies and the parent organization." *Wichit*a, 126 Kan. at 230.

62. In *Sekan Electric*, another rate case, the court upheld the authority of the Commission to adopt a hypothetical equity ratio for purposes of establishing the utility's rate of return. In doing so, as WRI notes, it cited a public utility treatise, which explained that it was management prerogative "to say how much debt should be incurred or common stock issued." However, the language cited by WRI is *dicta*. Moreover, *Sekan* did not involve or address circumstances where: (i) a utility (such as WRI's KPL division) does not have a separate capital structure from the parent holding company that is also used to fund nonutility businesses; (ii) the utility's effective capital structure is established not by independent utility management whose sole allegiance is to the utility, but by management which also has responsibility for nonutility affiliates, thus creating an incentive and opportunity to misuse the utility's financial strength to support the nonutility affiliates; and (iii) management has responded to this incentive and opportunity by taking actions which are detrimental to the utility's financial strength. There is no prerogative to behave in this manner.

2. The Factual Context

63. The Commission's obligation to protect the public utility from investment in nonutility businesses is triggered when there is a causal connection between the nonutility activities and a substantial likelihood of harm to the regulated public utility. Here, the record shows that: (i) WRI's excess debt is detrimental to WRI's utility activities, (ii) the excess debt was incurred by management's use of the utility to benefit nonutility activities; and (iii) WRI management — which manages both the utility and

nonutility activities — proposes to address the excess utility debt problems caused by its investment in nonutility activities with a plan that puts the utility at further risk of being left holding obligations to repay debt incurred to further nonutility activities.

64. The following facts and patterns of fact provide material support for the Commission's authority to act here to protect the interest of WRI's utility operations:

(a) WRI operates the KPL electric business as a division within a holding company structure. Within that holding company structure, human and capital resources are combined. This fact supports the Commission's actions here because this corporate structure allows the holding company to draw on the utility's human and capital resources for use in nonutility business ventures.

(b) Westar Industries, which houses the nonutility ventures, is a holding company owned exclusively by WRI, with which Westar Industries shares top management. Westar Industries has no assets except those conveyed to it by WRI. This fact supports the Commission's exercise of its authority because, in contrast to a context in which utility management is responsible solely for the interests of the regulated entity, utility management here is simultaneously responsible for an entity comprised of nonutility activities, whose interests may be, and have been, in conflict with those of the utility.

(c) WRI has a level of debt well in excess of equity, and a credit rating below investment grade. WRI's debt problem arises because of its financing of nonutility activities. As noted in the opening sections of this Order, in 1995, WRI, then almost exclusively a public utility company, had a total company debt of $1.7 billion. In 2002, after WRI invested in nonutility activities, WRI's total debt climbed to $3.6 billion. In 2001, $2.1 billion of the debt was attributable to nonutility business activities, and only $1.47 billion could reasonably be said to be required for utility operations. Proctor Direct at 17-21; Staff Exhibit No. JMP-1. The excess debt supports the Commission's exercise of its authority here because it increases the borrowing costs of WRI, who may need to seek recovery of those costs from its utility ratepayers, Dunn Direct at 11-12, and because WRI will likely continue to seek to use utility cash flow to make good on part or all of its obligation to repay the debt and interest expense on that debt. *See* Part III of this decision. WRI's retained earnings subsidy for Westar Industries consists of subsidized interest expense payments of approximately $257.6 million for the years 2000 and 2001. Proctor Direct at 18.

(d) WRI's proposed remedy to WRI's debt problem includes a "rights offering" of Westar Industries stock. In the July 20, 2001 Order, the Commission found that74, this rights offering, if effectuated, would have substantial detrimental effects on the electric operations. Notwithstanding the July 20, 2001 finding, WRI again proposed the use of a Westar Industries' rights offering as the first

> stage of a plan to remedy financial problems affecting the public utility. The Commission finds here that this renewed proposal would also be detrimental to the interests of the regulated utility operations. *See* Part III of this decision. These facts support the Commission's exercise of its authority to promulgate standards and guidelines to govern affiliate relations within the WRI corporate family because they strongly indicate that WRI management will seek to use utility operations and resources as a vehicle to resolve WRI's financial problems caused by its nonutility businesses, along with its nonutility investment objectives, in a manner that will place the regulated utility at further risk.

65. WRI identifies a series of facts which it states are material to the determination of the Commission's authority here. WRI Initial Brief at 13-18; Reply Brief at 9-10. But as explained next, the facts on which WRI proposes to rely, like the legal precedent on which it relies, vary materially to the circumstances here. Thus:

> (a) First, WRI states that relevant actions of its nonutility activities do not affect or are isolated from regulated activities. The Commission concludes that the record shows otherwise. For example, WRI states that the rights offering that was previously rejected by the Commission in the July 20, 2001 Order was for the issuance of securities by a WRI nonutility subsidiary, and therefore fell outside of the Commission's lawful concern. WRI Initial Brief at part IIB. This previously rejected proposal is not before us now;

however, as the July 20, 2001 Order explained, the rights offering was part of an integrated plan to merge with the PNM. As explained in that order, the combination of transactions — rights offering, split-off, Asset Allocation Agreement, along with the excess debt and misallocation of debt and equity between WRI and Westar Industries — had direct consequences for the regulated utility operations.[4] Similarly, with regard to the Asset Allocation Agreement, WRI states (in boldface) that **“nor has Westar Energy assumed debt of Westar Industries.”** *Id.* This wordplay ignores the facts. WRI incurred debt on behalf of nonutility activities in the first instance. Similarly, WRI states that the “the asset allocation agreement did not in any way affect the public utility franchise of WE [WRI].” *Id.* at 16. However, the Commission found in the July 20, 2001 Order that the Asset Allocation Agreement would have locked in the obligation of WRI (and its electric businesses), to repay the debt incurred to benefit nonutility businesses and investments.

(b) Second, WRI directs the Commission to evidence presented by its witness Richard Dixon that its utility operations are functioning well and asserts therefore that the utility has not been adversely affected by nonutility business activities. *See* WRI Initial Brief at

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[4] *See* July 20, 2001 Order, at Part I: “The Commission finds that the split-off, the asset allocation agreement, the rights offering, the intercompany receivables and the ownership of WRI common stock by Westar [Westar Industries], are interdependent and considered collectively, are contrary to the public interest and pose substantial risk of harm to Kansas electric customers.”

part III, as well as part IIB. However, WRI does not address the debt problem faced by WRI and, by consequence, its electric business. As stated above, the record shows that this debt problem was caused by WRI's funding of unregulated business activities, including funding secured by WRI's utility operations activities. The record further shows that the utility is burdened by the debt problem by increasing the utility's cost to borrow money. Dunn Direct at 11-12. In addition, WRI's regulated electric business has paid $257.6 million of interest expense for the years 2000 and 2001 on debt properly attributable to Westar Industries and the unregulated investments now housed within that WRI affiliate. Proctor Direct at 18.

(c) Third, WRI urges that its nonutility activities are now doing better, so there can be no future deleterious effect on electric activities. Thus, WRI states that: "Westar Energy's unregulated businesses, including Protection One, do not have a negative cash flow impact on Westar Industries or on Westar Energy." WRI Initial Brief at part IIB. However, the record confirms that: (1) in the five year period of 1997 through 2001, WRI's nonutility businesses had losses and diminution in value that exceeded $1.7 billion and (2) Protection One continues to be unprofitable. CURB Exhibit No. 9 at 20, KIC Exhibit No. 1 at 4 and 7, KIC Exhibit Nos. 6-8 and KIC Exhibit No. 11. In addition, Westar Industries extends credit to

Protection One through a senior credit facility at a subsidized rate of interest. KIC Exhibit No. 3 at 19, KIC Exhibit No. 5 at 3, KIC Exhibit Nos. 23 at 23 and 33, and MBIA Exhibit No. 7.

66. In sum, the Commission finds that the authority and obligations conferred upon it by statute to oversee and protect the integrity of utility operations provide ample basis and obligation for it to act to assure that WRI's ability and obligation to provide utility service on a basis that is just and reasonable, efficient and sufficient, is not compromised by management actions that place the utility at risk for the benefit of nonutility business ventures. The electric franchise received by WRI to provide electric utility service in its given certificated service territories within the state of Kansas as monopoly provider carries with it a public trust to operate in the best interests of its captive customers. The public utility possesses no unqualified right to engage in other nonutility businesses to the extent harm to the public utility results or is likely to result. Under the facts and circumstances of this case, the Commission's statutory authority and duty obligates the Commission to continue its work towards improving the financial and corporate restructuring of WRI. This work will require reversal of certain intercompany transactions that contributed to the present misallocation of debt and assets, movement of WRI's utility operations to a new utility-only subsidiary, and promulgation of standards or guidelines on interaffiliate relations to protect the public utility from harm in the context of WRI's current mix of utility and nonutility business activities. Each of these items is discussed next.

B. WRI Must Reverse Certain Intercompany Transactions

67. Prior to WRI's creation of Westar Industries in February 2000, WRI funded nonutility investments and operations largely by making loans to Westar Industries which were recorded by WRI as intercompany receivables due WRI from Westar Industries. Proctor Direct at 36. During calendar year 2000, WRI converted notes receivable of $1.06 billion owed by Westar Industries to WRI, into an equity investment by WRI in Westar Industries. *I*d. at 36 Westar Industries, in turn, eliminated its notes payable to WRI by $1.06 billion and credited its paid in equity account for the same amount. Proctor Direct at f.n. 29.

68. Proctor explained that, as of December 31, 2001, WRI had contributed approximately $1.95 billion in capital to Westar Industries, including $1.8 billion to its paid — in equity account and $0.15 billion to its retained earnings account. In addition to the series of accounting entries comprising the $1.06 billion intercompany receivable, three further components of the accounting transactions comprising the $1.8 billion at issue are capital contributions provided to Westar Industries related to: (i) the transfer of WRI's investment in ONEOK to Westar Industries; (ii) the transferring of miscellaneous other WRI investments to Westar Industries; and (iii) additional cash investments from WRI to Westar Industries. Proctor Direct at 19; Staff Exhibit No. JMP-4. Finally, WRI's capital contribution of $0.15 billion to Westar Industries retained earnings account relates to the after-tax impact from WRI paying $0.26 billion of interest expense in years 2000 and 2001 on debt used to finance the nonutility investments held by Westar Industries. Proctor Direct at 18.

69. These accounting entries as now recorded by WRI do not fairly represent the economic substance of transactions initially recorded as loans from WRI to Westar

Industries. In its July 20, 2001 Order the Commission found that these transactions "taken as a whole, had an asymmetrical result, benefiting Westar Industries at the expense of WRI." July 20, 2001 Order at ¶ 88. The Commission found that they:

> have no purpose related to WRI's obligation to provide utility service. Whatever corporate goal WRI was seeking to attain, it could have done so in a symmetrical manner that did not disfavor the utility.

Id. at ¶ 89. The July 20, 2001 Order then concluded:

> At this time, the Commission will not require the dividending by Westar [Westar Industries] to WRI of the intercompany receivable or of Westar's ownership of WRI stock. The harm from these two features of the present WRI-Westar Industries relationship stems from their relationship to the rights offering, the Asset Allocation Agreement and the split-off. Because the Order prohibits the rights offering, the Asset Allocation Agreement and the split-off, the Commission does not need to require the dividending of the intercompany receivable and the WRI stock at this time. Should the Commission observe, however, activities relating to these two elements that would cause harm, the Commission will revisit this judgment.

*I*d. at ¶ 90.

70. The accounting entries, considered alone, do not appear to violate financial accounting standards. Proctor Direct at 36. In the case of a company unaffiliated with a regulated utility, they might be innocent. But the context here is different. Westar Industries is a wholly owned affiliate of WRI. The July 20, 2001 Order found that WRI's regulated utility has been adversely affected by the drain on utility resources by the nonutility business activities conducted within Westar Industries.

71. In the interim since the July 20, 2001 Order WRI has not, as discussed herein, taken action, including action directed by the Commission in the July 20, 2001

Order, to undo the actual and prevent the potential damage to the utility caused by WRI's investment in nonutility activities.

72. In sum, WRI's conduct in the interim since the July 20, 2001 Order compels the Commission to conclude that, as long as the means and incentive remain available, WRI will continue to pursue the very type of separation between utility and nonutility businesses that the Commission has found to be contrary to the public interest. WRI must cease the use of interaffiliate financing transactions that produce a financial picture which departs from the historic funding of the regulated and unregulated activities, but has been used by WRI as an accounting convention to facilitate and continue its effort to expand nonutility activities. The Commission therefore directs WRI to reverse the interaffiliate transactions described more fully above and in Staff Exhibit No. JMP-4. That is, WRI is ordered to:

(a) reverse the transactions funding Westar Industries' equity with $1.95 billion by debiting Westar Industries' equity and crediting Westar Industries' intercompany payable to WRI by the same amount;

(b) reverse all transactions recorded during 2002 comprising the equity investments from WRI to Westar Industries to reflect such transactions as intercompnay payables to WRI from Westar Industries;[5]

5 The reversal of the accounting entries for the translations funding Westar Industries' equity account will require WRI to debit its intercompany receivable from Westar Industries by the aggregate amount of all entries recorded to Westar Industries intercompany payable account.

(c) provide the Commission with copies of journal entries recorded subsequent to year 2001 comprising all equity contributions from WRI to Westar Industries; and

(d) make a report, within 30 days of this Order, submitted under oath by its Chief Financial Officer, describing WRI's compliance with these requirements

C. WRI's regulated electric utility operations must be separately incorporated as a subsidiary of WRI.

1. Overview

73. The record in this proceeding, as discussed above, shows that WRI has burdened utility assets with debt commitments devoted to unsuccessful nonutility ventures, and that its present plan, like the plan discussed in the July 20, 2001 Order, again favors the interests of Westar Industries over the utility businesses of WRI. The record also shows that WRI's corporate structure makes it difficult, time consuming and costly to monitor, prevent, and correct intercompany transactions that are detrimental to utility activities.

74. Also, while the Commission's requirement that WRI reverse accounting entries that operate to the detriment of the utility operations addresses the past abuses, they do not prevent or protect against future ones. The reversals, by themselves, do not prevent WRI from continuing its efforts to further nonutility business ventures to the continued detriment of the regulated utility operations. Nor do the reversals provide incremental protection to the utility operations from the $1.6 billion of debt issuances whose proceeds were used to serve the unregulated business ventures because WRI, an electric public utility, is still the obligor on that debt not Westar Industries.

75. To prevent WRI's continued misuse of the regulated utility operations to benefit nonutility business ventures, CURB has recommended the complete split-off of management control over electric operations from control over nonutility activities. *See, e.g.*, Crane Direct at 7. However, as CURB itself acknowledges, to require a total split-off at this point would leave the electric utility operations burdened with nonutility debt. The Commission, therefore, cannot find that the type of separation called for by CURB is presently in the public interest.

76. Nonetheless, the Commission does agree with CURB that further insulation of the electric utility operations from other WRI operations are needed to: (i) minimize the burden that WRI's nonutility debt places on the electric operations, and (ii) maximize the likelihood that efforts to exploit utility operations on behalf of unregulated activities are prevented, or, if not prevented, detected and corrected. It is essential that WRI's corporate structure be such that the utility subsidiaries be aligned with the debt issued to fund such utility activities. In the absence of a proper alignment, management has incentive to favor and enrich Westar Industries at the expense of the regulated utility operations.

77. Toward these ends, the Commission concludes that it is necessary to direct WRI to provide, within 90 days of this Order, a proposal, which will be subject to hearing and approval by the Commission, to restructure its corporation so that the KPL electric division is placed in a separate subsidiary of WRI. (KG&E is already located in a separate subsidiary.) That new electric utility subsidiary of WRI could be a subsidiary separate from KG&E, or it could be a subsidiary which holds both KG&E and the KPL electric operations. There is no suggestion that this separation will have any adverse

effect on WRI since WRI and its regulated electric businesses are and will remain part of a consolidated group immediately after separate electric utility subsidiary or subsidiaries are formed.

78. This corporate restructuring is necessary to protect the public interest. Accompanying the movement of the KPL utility business to a new subsidiary must be a new cost allocation manual, and specific reporting requirements. These two requirements are discussed next, followed by an explanation of the reasons for the necessity of moving the KPL utility business to a new subsidiary.

2. Cost Allocation Manual

79. As explained throughout this Order, the Commission has concerns about the steps WRI has taken to subsidize and enrich its nonutility business and investments to the detriment of the electric utility and its ratepayers. To resolve these concerns, there must be proper identification of costs and investments attributable to regulated utility and nonutility activities and allocation of common costs and investments between them.

80. Therefore, the Commission directs WRI to review and improve its methodology for documenting and reporting of costs attributable to regulated utility operations and nonutilty business activities and for allocating joint and common costs and investments among the WRI businesses. As recommended by Staff witness McClanahan (McClanahan Direct at 20) and KIC witness Dittmer (Dittmer Direct at 24), WRI shall develop proposed CAM procedures to reflect its proposed corporate structure that follows from this Order. The CAM shall provide the allocation procedures proposed by WRI to allocate joint and common overhead costs and investments to the regulated electric utility subsidiary or subsidiaries and WRI’s other affiliates. The proposed CAM shall also fully

explain the reasoning for and determination of allocation methods and ratios employed and why they are appropriate. WRI shall provide the proposed CAM to the Commission for review and approval along with the corporate restructuring plan that assigns WRI’s electric utility assets and related liabilities to the newly created electric subsidiary or subsidiaries, as required below.

81. Further, subsequent to the Commission’s approval of WRI’s new CAM, WRI must update and revise the CAM annually. The CAM revisions and updates should reflect changes in the relationship between causation and benefits attributed to WRI’s costs and investments. Annual maintenance of a CAM would require WRI’s management and the Commission to review the reasonableness of various cost assignment and allocation schemes in place. As KIC witness Dittmer explains: “…In other words, by consciously reviewing existing policies and considering changed circumstances before committing procedures ‘to writing’ within the CAM, management would be indirectly encouraged to review the adequacy, equity and reasonableness of cost assignment/distribution policies in place…” Dittmer Direct at 30.

3. Reporting Requirements

82. Once a Commission order is issued approving a new CAM and the assignment of assets and liabilities from WRI to the newly created electric subsidiary or subsidiaries, the jurisdictional electric utility operations shall fully disclose its affiliate relations with the parent company and other nonutility affiliates and comply with certain financial reporting requirements. Those financial reporting requirements shall include the quarterly filing of income statements, statements of financial position (balance sheets) and statements of cash flow for the electric utility subsidiary or subsidiaries and its

holding company parent, WRI. The affiliate reporting requirement proposed in the January 8, 2002 Order should be adopted and implemented for the electric utility subsidiary or subsidiaries required by this Order.

83. The provision of separate financial statements substantially enhances the Commission's ability to properly monitor and control the effects on ratepayers' rates and on the regulated electric subsidiary or subsidiaries' capital structure of WRI's affiliate transactions and WRI's corporate funding for utility and nonutilty investments. See Proctor Direct at 34. Under cross-examination, WRI witness Geist conceded that the Commission might benefit from a review of periodically filed income statements, balance sheets and cash-flow statements. Geist, Tr. at 435-36.

4. Reasons for the Requirement of Moving the KPL Utility Business to a Utility-Only Subsidiary

a. The Requirement That WRI Electric Operations Be Placed in a Separate Subsidiary or Subsidiaries Will Permit and Provide for an Allocation of Debt That Reflects Appropriate Cash Flow Needs

84. The creation of a separate subsidiary will significantly, though not completely, reduce the misallocation of debt to the electric utility activities. As already discussed, WRI is presently obligated to repay approximately $1.6 billion in debt that is related to nonutility businesses, and not utility operations. At present KG&E is a subsidiary within WRI; however, the KPL electric operations are an unincorporated component of WRI. As such, KPL operations will continue to be directly and primarily exposed to the repayment of debt and of interest expense on debt incurred for the unregulated enterprises. The relocation of the KPL operations into a separate subsidiary

will permit the allocation to the new subsidiary of debt that is solely attributable to the utility's operations.

85. The Commission recognizes that utility assets may have been used to secure debt in excess of that debt attributable to utility operations — *i*.e., that utility assets secure debt incurred to finance nonutility activities. It is not the Commission's intent that its directive to move the KPL utility operations into a subsidiary of WRI be in conflict with such security commitments. The Commission therefore will require WRI to provide direct evidence of any such commitments, along with a narrative explanation. If the amount of WRI's consolidated debt currently secured with either WRI's or KG&E's electric utility assets exceeds the $1.5 billion of debt correctly attributable to the electric businesses, and if that excess debt must remain in the same corporation as the utility assets, then it may be necessary for the electric subsidiary or subsidiaries to hold debt in excess of the amount properly attributable to the utility business, based on Mr. Proctor's cash flow analyses. Again, if WRI proposes such a result it must provide clear evidence of its necessity. If the necessity does not exist, then the amount of debt for which the utility subsidiary or subsidiaries is responsible should not exceed $1.47 billion attributed to it by Proctor. Proctor Direct at 14.

86. Should it be necessary for the electric utility subsidiary or subsidiaries to hold more debt than is properly attributable to it, due to a contractual requirement that debt follow assets, the Commission requires WRI to take action to assure that debt initially assigned to the electric subsidiary or subsidiaries is reduced expeditiously by that amount of debt secured by utility assets but used to fund nonutility business ventures. The record shows that such expeditious reduction in debt is possible. Specifically, the

testimony of Staff witness Proctor shows that the cash flow from the electric operations is sufficient to permit at least $100 million per year to be set aside for the reduction of debt. Staff Exhibit No. JMP-17. According to the forecasted cash flow estimates presented in Staff Exhibit No. JMP-17, Schedule Nos. 2 and 3 for the years 2003 and 2004, WRI's electric utility operations will provide $344.0 million and $306.4 million cash flow from operating activities, respectively. The Commission, therefore, directs that, for the two years beginning on the date WRI submits the plans required by this Order, WRI shall reduce secured utility debt by at least $100 million per year from cash flow. At or prior to the expiration of this two-year period, the Commission will review the need for, and the measure of, continuing cash flow commitments in light of the evidence of WRI's financial condition available at that time. WRI or the electric utilities shall file quarterly reports on its progress on retiring debt secured with utility assets, beginning with the quarter ending December 31, 2002.

b. The Location of WRI's Electric Operations in Separate Corporate Entities Enhances Monitoring and Accounting for Interaffiliate Transactions

i. WRI's Current Accounting, Reporting, and Related Monitoring Are Inadequate to Protect the Interests of the Public Utility and its Customers in the Context of a Diversified Company.

87. The record in this, and related, Commission proceedings, confirms the inadequacy of WRI's accounting and recordkeeping in regard to the interaffiliate relations between electric utility and nonutility businesses.

88. Staff witness McClanahan noted that in Docket No. 01-WSRE-436-RTS, the Commission found that WRI's cost allocation manual (CAM) was inadequate for

allocating costs for a company diversified in utility and nonutility business activities. That is, WRI's CAM was last revised in 1992, well prior to WRI's foray into nonutility business ventures. McClanahan Direct at 13, 15-16 and 20. Staff witness McClanahan summarized:

> Through the discovery process, parties requested WRI to provide descriptions and documentation of policies, procedures, and practices that govern the company's accounting for affiliate transactions [as contained in Attachment No. 1 to the McClanahan Direct Testimony]. The majority of these responses include only a very brief description of accounting practices and in most cases includes no documentation and supporting policies and procedures.

McClanahan Direct at 9.

89. WRI argues that recordkeeping procedures are adequate because they are kept in compliance with Generally Acceptable Accounting Principles (GAAP). However, the testimony of WRI's own external auditor, James Edwards, an accountant with Arthur Anderson, shows that GAAP does not address the concerns about interaffiliate relations that are the subject of this proceeding. Edwards explained that in reviewing books pursuant to GAAP, auditors review financial data on a consolidated basis. They do not address allocations between or among affiliates:

> Consolidated financial statements are meant to report the financial position and results of operations of a reporting entity that comprises a parent and its consolidated subsidiaries essentially as if all of their assets, liabilities, and activities were held, incurred, and conducted by a single entity.

Edwards Direct at 11.

90. Elaborating on this distinction, Staff witness McClanahan stated that:

> cross-subsidy issues between regulated and nonregulated subsidiaries, such as assignments of assets or liabilities that may be to the detriment of the utility subsidiary, are of little or no concern to a holding company's external auditors. However, these cross-subsidy issues are very much a concern to public utility commissions.

McClanahan Direct at 7.

91. Similarly, WRI's argument that it is, or will be, subject to sufficient "corporate governance" requirements is not responsive. WRI contends that, in light of failures at Enron, WorldCom, and elsewhere "corporate governance" requirements are now imposed by statute and, therefore, WRI is already required to comply with "corporate governance" protocol. WRI Reply Brief at 42-44. However, the new corporate governance requirements WRI refers to do not address the special circumstances of regulated utilities that diversify into nonutility business ventures.

ii. The Requirement that WRI Electric Operations be Placed in a Separate Subsidiary or Subsidiaries Will Improve the Ability to Detect the Use of Electric Utility Operations to Further Nonutility Activities.

92. The separation of the jurisdictional utility operations into their own subsidiary or subsidiaries will substantially improve the Commission's ability to oversee transactions between utility and nonutility operations. With the electric utilities in their own subsidiaries, better and more timely monitoring of dealings between regulated utility and nonutility activities should be available because: (1) cash flow analyses for the regulated electric utility activities, which WRI presently states is impossible or difficult to provide for its electric businesses, would be routinely and readily forthcoming; (2) the relationship between utility operations and debt issuances will be clearer because electric subsidiaries may seek authority to issue debt directly; (3) the Commission will be able to

monitor how cash transactions are recorded for accounting purposes between the electric affiliates and the holding company; and (4) the Commission will be better able to monitor operating expenses and capital investments related to activities serving utility and nonutility activities.

93. WRI argues that it cannot prepare and file periodic financial statements for the electric businesses showing cash flow, income and financial position because the electric business is not a separate legal entity. WRI states that in order to produce separate income and balance sheets for Westar Industries and WRI's electric utility businesses, "it would require certain assumptions concerning what assets comprise the electric utility business and what percent debt and interest expense should be allocated to which business at a particular point in time." WRI Initial Brief at 64. In addition, WRI argues it is not possible "to trace the money" for purposes of determining cash flow statements separately for Westar Industries and WRI's electric business. *I*d. at 66. As discussed above in Part III of this decision, WRI's arguments are not credible. However, if WRI lacks the skills or resources to compile such reports because of its present corporate structure, the corporate restructuring required by this Order will enable them to compile such reports with the skills and resources now available. WRI's witness Geist admitted that such reports would be helpful and useful to the Commission. Geist, Tr. Vol. 2 at 435.

94. The improved quality and availability of monitoring data means that better information will be available to those with responsibility for regulating the utility and that information is more likely to be available before damage to the utility occurs. The increased monitoring should, in turn, deter WRI management from continued efforts to

use electric operations to prefer or subsidize nonutility ventures, and provide management with incentive to focus on the electric business. Finally, time and resources now devoted to overseeing WRI's continuing difficulties will be available (to the Commission and WRI management) for more productive tasks, such as achieving excellence in all aspects of utility service.

D. Directive and Guidance on the Restructuring Plans

95. Within 90 days from the date of this Order, the Commission directs WRI to provide a plan to separate the jurisdictional electric utility business currently operating as a division of WRI into a subsidiary corporation of WRI. In connection with the filing of this plan, WRI shall file testimony which covers, at least the following issues:

1. the description of the process or procedure for the corporate restructuring, including the basis and results of the allocations of WRI's assets and liabilities to the electric utility subsidiary or subsidiaries and description of the accounting entries necessary to implement the process or procedure;

2. a statement, with documented and analytical support, as to whether the restructuring described here is consistent with WRI's present indenture agreements, and, where not consistent, what actions WRI would have to take to obtain necessary amendments to the debt indenture agreements to proceed with the restructuring; and

3. a statement explaining how the corporate restructuring plan is consistent with the principles outlined in this Order and in the July 20, 2001 Order.

96. Any party may file comments or responsive testimony to WRI's testimony concerning its corporate restructuring plan and proposed CAM required by this Order. The Commission will determine whether a hearing and further argument is necessary upon review of the prefiled testimony.

97. The Commission understands that Sections 9 and 10 of the Public Utility Holding Company Act, 15 U.S.C. §§ 79i and 79j, will require WRI to obtain approval from the U.S. Securities and Exchange Commission (SEC) before creating the new utility subsidiary. The Commission knows of no legal reason why SEC approval of the transaction should not occur, and directs WRI to provide to this Commission, along with its plan, a draft application to the SEC. WRI's plan shall describe the steps and provisions WRI is taking to meet these requirements.

E. WRI Shall Reduce Debt By Employing Measures Shown By the Record to Be Appropriate.

1. WRI Must Undertake Requisite Debt Reduction Measures, The Mix of Which the Commission Will Leave to WRI Discretion, Initially.

98. By itself, separation of all WRI's utility businesses into an electric subsidiary or subsidiaries, along with the debt secured by those utility assets, will not eliminate fully the problems now plaguing the utility, because WRI's consolidated debt will remain excessive relative to its equity. Although much of WRI's consolidated debt will not be housed in the electric subsidiary or subsidiaries, the excess debt which today exists in WRI and which will remain, after the transfer, at the WRI level, still will affect the utility subsidiaries adversely. For example, lenders may raise the cost of debt to the electric subsidiary or subsidiaries because lenders will be concerned that debt-heavy WRI might draw funds from the electric subsidiary or subsidiaries. *See, e.g.*, Dunn Direct at

11-12. Similarly, the cost of equity to WRI will increase because the imbalance increases the financial risk for an equity investment in WRI, and thus equity holders' investment value will be diminished. Because WRI will be the source of equity for the electric subsidiary or subsidiaries (the electric subsidiary or subsidiaries do not raise equity on their own), the effect is to raise the cost of equity to the electric subsidiary or subsidiaries. While the Commission, in a rate case, may declare that excessive costs for debt and equity, arising from nonutility causes, are not recoverable in utility rates, such nonrecovery may increase financial distress. The risk is that of a vicious circle, whereby the ratemaking actions taken by the Commission to protect the utility customers from WRI's financial troubles increase those troubles, and also increase the likelihood that the customers will bear the cost of those troubles. To avoid the ratemaking dilemma, therefore, the public interest requires that the Commission order WRI to reduce its consolidated debt while also transferring its utility business to a subsidiary.

99. The Commission is issuing these two directives — to reduce debt and to separate all of the utility businesses into a subsidiary — to WRI, because WRI is a public utility subject to the Commission's jurisdiction, and because WRI has the excess debt which endangers that public utility. The two directives are linked: the utility business must be separated so that it no longer is subject to the debt misallocations of the past, and WRI must reduce its debt so that the dangers caused by the past decisions do not harm the utility's future. WRI, the entity subject to the Commission's jurisdiction, must take both actions. It is true that after WRI transfers its utility business to a subsidiary, WRI itself will not itself operate a public utility business. It is also true that the transfer of the public utility operations may occur before WRI has carried out the debt reduction actions

required by the Commission. But because the Commission is imposing the two obligations today, on WRI in its capacity as a public utility, WRI cannot avoid its debt-reduction obligations by transferring its utility operations.

100. The record shows that WRI has a number of alternatives, which, in combination, should provide for the elimination of excess consolidated debt and the restoration of WRI to the investment grade credit rating to which its ratepayers are entitled. WRI urges, Reply Brief at Part III that its management should be permitted discretion to devise the appropriate mix of debt-reducing actions. The Commission will allow management to select the mix, subject to Commission review, so as to assure a combination of actions that is consistent with the principles and prohibitions in this Order and that will have the necessary debt-reducing effect within a reasonable amount of time. In doing so, however, WRI may not propose a form of the “rights offering” — which the Commission has rejected twice — because of the risk such a transaction imposes on regulated utility activities. Moreover, the Commission’s willingness to allow management to make the initial proposal, as opposed to the Commission mandating some mix of debt-reduction actions, depends on the Commission being assured, through WRI’s words and actions, that there is no further conflict between the needs of the utility operations and WRI’s nonutility business goals. As stated above, management is not entitled to discretion where it has the opportunity and incentive to use that discretion in a manner not consistent with the public interest.

101. Because of the dangers posed by WRI’s consolidated debt, the Commission will require WRI to provide quarterly status reports beginning with the

quarter ending December 31, 2002, describing the progress achieved to reduce WRI's consolidated debt. Staff shall actively monitor and review WRI's status reports.

2. WRI's Debt Reduction Measures Shall Consider and Implement those Measures Shown By the Record to Be Appropriate.

102. The record shows that the following are measures that provide feasible alternatives for the needed WRI debt reduction package. These measures must be among those considered and, with respect to the cash flow alternative discussed below, must be implemented by WRI. This obligation to consider means that if WRI rejects a particular measure, it must explain why, in the form of expert testimony.

Cash Flow. As stated herein, Staff witness Proctor demonstrated that debt can be reduced by $100 million per year from cash flow. Staff Exhibit No. JMP-17. The Commission therefore requires this debt reduction method to be employed. Specifically, WRI shall first reduce the debt assigned to the newly created electric subsidiary or subsidiaries.

*Issuance of WRI Stoc*k. The record shows that WRI can issue more shares of WRI stock to reduce consolidated debt. Proctor testified that WRI can raise funds for the purposes of reducing debt most expeditiously by issuing additional shares of WRI stock. WRI's opposition to the proposed sale of WRI stock to reduce debt is the claim that a sale of too large a volume will have negative effects on WRI's stock price. However, Staff did not propose, and the record here does not require, that the entirety of the debt reduction be made by sale of WRI shares.[6] The Commission agrees with Staff witness

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[6] WRI, Initial Brief at 54, states that the sale of 81.4 million shares of its stock would not be practical. However, Staff used an 81.4 million figure merely to illustrate the effect of a stock sale; Staff did not advocate a sale in that amount. Rather, Staff witness Proctor testified that any WRI stock sale should be based on the "optimal combination of the issuance of WRI's common stock and the sale of part, or all, of WRI's investments in Protection One, Inc. and ONEOK, Inc." Proctor Direct at 5; see also Staff Reply Brief at 4.

Proctor that an issuance of WRI common stock should be considered to generate proceeds to decrease WRI's consolidated debt. Staff's argument is persuasive that WRI's stock price increases when proceeds from the issuance of WRI common stock are used to decrease consolidated debt, and thus, decrease the current negative effect of financial distress and excessive interest expense payments on WRI's current stock price. Proctor Direct at 59-64, and Errata Filing. *See also* Staff's Reply Brief at 4. Therefore, WRI must consider the issuance of WRI stock among the alternatives.

Sale of ONEOK stock. The record shows that the sale of some or all of WRI's investment in ONEOK stock is an alternative for debt reduction. Westar Industries currently owns approximately 44.5 percent of ONEOK's stock, consisting of 7.8 percent of the ONEOK common stock and the balance in the form of convertible preferred stock. WRI Initial Brief at 8. WRI states that under a shareholder agreement between WRI and ONEOK, ONEOK or its designee has the right to purchase the stock owned by WRI at a cash sales price that is 98.5 percent of the average of the closing price of the ONEOK stock for the 20 trading days preceding the day on which the sale notice is delivered.

103. WRI's Initial Brief acknowledges that the sale of ONEOK stock is among the alternatives that should be pursued. WRI states that it intends to pursue ONEOK stock sale. WRI Reply Brief at 29-31. Thus, WRI states:

> Westar Industries currently plans to sell outright, or sell an option to purchase, all or a portion of the ONEOK stock it owns in privately negotiated transactions or sales into the public market. Under the Shareholder Agreement applicable . . . Westar Industries is now free to pursue a sale of the stock and is free of certain restrictions (including

percentage limitations on sales contained in that agreement).

WRI Reply Brief at 31-32.

104. WRI explains that the Shareholder Agreement allows WRI until September 30, 2003, to complete the sale of the stock. WRI Reply Brief at 32. In sum, the record shows that the sale of ONEOK stock provides a reasonable alternative for substantial consolidated debt reduction and, therefore, WRI should pursue this among the alternatives it will consider and employ to reduce its consolidated debt.

*Dividend Reduction*s. Staff and Intervenors (Proctor Direct at 61; Hill Direct at 24; and Dittmer Direct at 10) point out that WRI may also decrease dividends to reduce debt. WRI Initial Brief at 33, citing K.S.A. 66-1214, states that the Commission may prohibit dividends only following a hearing and requisite determination. The Commission in this Order does not prohibit WRI from making any payment of dividends; however, the Commission does direct WRI to consider the reduction or elimination (for some period) of dividends among the alternatives for a debt reduction package. If WRI does not consider or implement this measure, then WRI should include in its status report the explanation as to why it has not done so and why the Commission should not initiate a proceeding to require the electric subsidiary or subsidiaries to do so.

*Sale of Protection One stoc*k. The record shows that the sale of some or all of WRI's Protection One stock can play a significant role in the reduction of WRI's consolidated debt, especially in combination with the sale of ONEOK stock. Several witnesses explained that the sale of Protection One should be considered as part of a package with the sale of ONEOK stock. Proctor Direct at 5; Dunn Direct at 46. WRI states that the sale of Protection One is not presently desirable for a variety of reasons, including the positive outlook for Protection One. WRI Initial Brief at 30-31. WRI's arguments do not provide an adequate basis for permitting WRI to exclude consideration of a sale of Protection One stock as part of the debt reduction mix. In WRI's current financial circumstances, the question is not whether Protection One might conceivably be an attractive investment for the future; but rather, given WRI's need to reduce its debt promptly, whether the sale of part or all of Protection One is preferable to other debt reduction alternatives. To accept WRI's argument would be to accept WRI's premise: that in establishing priorities within the corporate family, favor is given to the nonutility businesses before the utility businesses. If this Order could be boiled down to one sentence, it would be a sentence rejecting that premise. WRI shall show that its proposed debt reduction steps include consideration of the relative costs and benefits of the sale of part or all of Protection One stock.

V. WRI Shall Refrain from Any Action that Results, Directly or Indirectly, in its Electric Utilities Subsidizing Nonutility Business Activities.

A. Initiation of Additional Proceedings to Determine Standards and Guidelines for Affiliate Relations within the WRI Corporate Family.

105. The corporate restructuring of WRI leaves WRI still holding a combination of utility businesses, and nonutilty businesses and investments. WRI's joint control of these two types of business still leaves in place the risk that the utility businesses can bear risks and costs associated with the nonutility businesses. The financial and corporate restructuring discussed above therefore must be accompanied with appropriate guidelines for affiliate transactions and nonutility investments, to prevent subsidies flowing from WRI's utility business to nonutility businesses and investments that could increase electric utility rates or harm the utility's capital structure.

Even with the benefits of financial and corporate restructuring required earlier in this order, there is still a need to provide better guidelines for and reporting of affiliate transactions, so that transactions that implicate or affect the regulated utility business operations meet the public interest test. WRI has argued that the Commission adopt such requirements only after a generic rulemaking procedure that applies to all jurisdictional utilities.

106. Up to this point, this Order has focused on two goals: (1) removing immediate harms or threats of harm; and (2) creating protections from additional harm. This Order sought to achieve the first goal by (a) rejecting WRI's proposed plan, which would make permanent the misallocation of debt and assets between the utility and nonutility businesses; and (b) requiring WRI to reverse those interaffiliate transactions that unjustly enriched Westar Industries' equity. This Order sought to achieve the second goal by requiring WRI to move its electric business to a subsidiary, so that, in the future, financing associated with nonutility businesses would not be incurred, backed or guaranteed by the utility business.

107. These general requirements along with the new CAM and financial reporting requirements, if implemented expeditiously and conscientiously, should shield the utility businesses from the financial harm arising from past WRI actions described in this Order and put the WRI corporate family on a path to financial stability. However, standing alone, these changes do not guarantee that cross-subsidy problems will not recur.

108. As explained in Part IV(C) of this Order, the Commission's concern that WRI's electric utility business has been used to subsidize nonutility businesses is not

adequately addressed by external audits applying GAAP or the SEC filing requirements. Where utilities are part of a holding company, external auditors are primarily concerned with ensuring that consolidated financial statements are presented fairly and in adherence to GAAP. Therefore, cross-subsidy issues between utility and nonutility subsidiaries, such as assignments of assets or liabilities that may be to the detriment of the utility subsidiary, are of little or no concern to a holding company's external auditors. However, the Commission is greatly concerned with one segment of the holding company, the regulated utility operations. The cross-subsidy issues are very much a concern to the Commission, especially, where the record demonstrates that WRI has acted on incentives to enrich Westar Industries and its nonutility businesses and investments at the expense of WRI's electric utility operations.

109. To protect the electric utility operations, the Commission must determine, for example, the types and amount of nonutility investment with which the public utility can be associated; the corporate structure relationship between the utility and the nonutility business; and the types of regulatory rules and monitoring which should apply to the relationship between WRI's utility operations and its nonutility investments. The Commission will not make or impose final standards or guidelines governing affiliate relations within the WRI corporate family on the present record. Although some witnesses offered suggestions for the proper relationship between the utility and nonutility businesses, the main focus of this proceeding has been on WRI's present problems and the various plans for resolving those financial problems. The record has not been developed sufficiently for the Commission, assisted by the parties, to fashion a full policy for WRI to govern the affiliate relations between the electric subsidiary or

subsidiaries required by this Order and other WRI affiliates. Accordingly, the Commission will institute a new phase to this proceeding, which will fully address this problem. In this proceeding, the parties shall address at least the questions set forth in Appendix A. Within 30 days of this order, parties shall submit to the Commission additional questions they believe should be considered. Shortly thereafter, the Commission will issue an order setting forth the final question list and a schedule for submissions.

110. While a generic rulemaking is one way to govern affiliate relations, it is not statutorily required, particularly, when there is a record replete with company-specific justification. The record in this case confirms that WRI presents such unique circumstances. The public interest requires the Commission to call upon this agency's specialized expertise in utility matters to craft appropriate guidelines and standards for affiliate relations within the WRI corporate family. While the actions the Commission directs here are subject to further review and revision in connection with any generic proceeding the Commission might initiate later, the record mandates the Commission act immediately to address the acute problems related to WRI's affiliated relations.

B. Interim Standstill Protections

111. The Commission must also address a remaining problem that has the potential to completely frustrate the policy objectives of this Order. During the pendency of this investigation, WRI may take further actions which increase risk to utility customers, misallocate debt and assets within the WRI corporate family or engage in interaffiliate on terms that disfavor the utility. Such actions by WRI would raise questions as to their consistency with the utility's statutory obligations to provide sufficient and

efficient service and make the Commission's investigation unnecessarily difficult. The Commission cannot successfully regulate a moving target. The Commission cannot establish proper parameters on the relationships between the utility and the nonutility businesses if WRI is simultaneously creating or modifying those relationships. The Commission therefore will establish for this interim period standstill protections to require WRI to refrain from any action that results, directly or indirectly, in its electric utilities subsidizing nonutility business activities. These activities would include, but not limited to those described below.

112. These standstill protections shall be effective immediately upon issuance of this Order, and will remain in effect for an interim period ending when the Commission adopts final guidelines and standards pursuant to the new phase of the proceeding described in Appendix A. At some point during this interim period, WRI's corporate structure will change, due to the requirement, discussed in Part IV of this Order, that WRI move its KPL utility division to a subsidiary. As explained further below, the entity or entities to which these protections apply vary, depending on whether the utility business has moved from WRI to a subsidiary.

113. For purposes of these protections, "nonutility affiliates" of WRI include Westar Industries or any subsidiary thereof, and "KPLCo" refers to the subsidiary of WRI that is the transferee of WRI's KPL utility business pursuant to the requirement of Part IV of this Order, and to any subsidiary of WRI that holds the stock of KPLCo.

Interaffiliate loans, investments and other cash transfers. WRI and KG&E shall seek Commission approval before making any loan to, investment in or transfer of cash to a nonutility affiliate of WRI from either WRI or KG&E, where the value of such transaction equals or exceeds $100,000. After the transfer of the KPL utility business from WRI to KPLCo, this requirement shall apply to both WRI and KPLCo. This requirement applies to WRI and KG&E before KPLCo comes into being, and to KPLCo and KG&E after KPLCo comes into being, so that utility resources are not inappropriately diverted to nonutility businesses. This requirement applies to WRI after KPLCo comes into being because, even though WRI at that time would not itself be a utility, its financial status could be weakened by such loans, investments and cash transfers; such weakening could raise the cost of capital for the utility subsidiary, as explained elsewhere in this order.

Interaffiliate agreements. WRI and KG&E shall seek Commission approval before either WRI or KG&E enter into any interaffiliate agreement with any WRI nonutility affiliate, where the value of goods or services exchanged exceeds $100,000. After the transfer of the KPL utility business from WRI to KPLCo, this requirement shall apply to WRI, KG&E and KPLCo. The rationale for this requirement is the same as that expressed in the final two sentences of the preceding paragraph concerning interaffiliate loans, investments and other cash transfers.

New investment in nonutility businesses. WRI and KG&E shall seek Commission approval before WRI or any affiliate thereof invests more than $100,000 in an existing or new nonutility business. After the transfer of KPL utility business from WRI to KPLCo, this requirement shall apply to WRI, KG&E and KPLCo. The rationale for this requirement is the same as that expressed in the paragraph above concerning interaffiliate loans, investments and other cash transfers.

Interest on interaffiliate loans. The outstanding balance of any existing or future interaffiliate loans, receivables or other cash advances due WRI or KG&E from any WRI nonutility affiliate shall accrue interest payable to WRI or KG&E from that debtor at an interest rate equal to the incremental cost of debt of the nonutility affiliate that is the borrower. For purposes of the preceding sentence, the incremental cost of debt is the cost of debt such nonutility affiliate would incur if it borrowed money, contemporaneously, from a nonaffiliate lender at terms and conditions comparable to those in the loan agreement between WRI and the borrowing nonutility affiliate. After the transfer of the KPL utility business from WRI to KPLCo, this requirement shall apply to WRI, KG&E and KPLCo. The rationale for this requirement is the same as that expressed in the final two sentences of the paragraph above concerning interaffiliate loans, investments and other cash transfers.

Interaffiliate asset transfers. WRI and KG&E shall not transfer or cause to be transferred, any non-cash assets, including intangible assets or intellectual property, of WRI or KG&E to Westar Industries or any WRI nonutility affiliate without Commission approval. After the transfer of the KPL utility business from WRI to KPLCo, this requirement shall apply to KG&E and KPLCo only. This requirement applies to WRI before KPLCo comes into being, and to KPLCo after KPLCo comes into being, so that utility resources are not inappropriately diverted to nonutility businesses.

Issuance of debt. WRI and KG&E shall obtain Commission approval before the issuance of any debt. After the transfer of the KPL utility business from WRI to KPLCo, this requirement shall apply to WRI, KG&E and KPLCo. The rationale for this requirement is the same as that expressed in the final two sentences of the paragraph above concerning interaffiliate loans, investments and other cash transfers.

Sale of ONEOK. If Westar Industries sells any portion of its investment in ONEOK, the requirements of Order No. 45, issued in this docket on July 9, 2002, shall apply.

114. The Commission's statutory authority, as described in Part III above, allows the Commission to govern affiliate relations within the WRI corporate family in the manner set forth in these interim standstill protections. The public utility enjoys a monopoly status which protects it from competition. That status is a privilege, not a right. While there are rights associated with the status, such as statutory and constitutional rights to reasonable rates and to procedural due process, there is not a right to the monopoly role permanently. Nor is there a right to engage in, or to affiliate with a company that engages in, nonutility businesses which, by virtue of their type, size or actions, pose a substantial risk of harm to the utility or its customers. There is no right in the utility to act as a financier or guarantor or risk-bearer of nonutility businesses, as a trainer of future employees of or a procurer of headquarters space for a nonutility business. There is instead an obligation in the utility to refrain from activities and associations that render the utility unable to carry out its statutory obligations. These interim standstill protections assure that the utility complies with this obligation.

VI. CONCLUSION

115. A utility's statutory responsibility to the public requires focus on the utility's core obligation of servicing the public. A public utility must provide sufficient and efficient service. This means that the utility has an on-going responsibility to achieve

efficiencies and remove inefficiencies. The utility must be alert to the best practices of similarly situated electric utilities and make best efforts to adopt those practices. In a competitive market, a company that does not achieve best practices loses customers to companies that do. A utility may not rely on its monopoly position to escape this type of accountability. To do so is not consistent with efficient and sufficient service.

116. The facts of this case demonstrate that nonutility investments have distracted WRI management from the core obligation of servicing monopoly customers. Further, senior management lacked knowledge or understanding of the company's important internal policies and have demonstrated an inability to work with Kansas customers, Kansas communities, creditors and regulators.

117. WRI has argued that electricity service has not failed yet, but this argument misses the point. By virtue of a grant from the state, a utility has the special privilege of providing an essential service to Kansas customers; in return for such a privilege, a utility must offer more than a promise that its service will not fail. A standard of mere non-failure would leave management free to channel surplus time and talent to matters other than providing efficiency and excellence in utility service. The premise of a natural monopoly, and the regulatory system that supports it, is that a single company will operate more efficiently as a monopoly than as a competitor. But this premise carries a risk: that the freedom from competition will cause management to take its monopoly responsibilities for granted. In this case, management has treated the monopoly business less as an obligation to maximize efficiencies, and more as a device to create value for nonutility investments. That is what has happened here.

118. WRI’s argument that electricity service has not failed also ignores the distinct detriment of the company’s nonutility investment in terms of the use of resources. So many individuals — Commissioners, Staff and its consultants, the parties, their lawyers and their consultants; and WRI personnel — have been forced to spend significant portions of their resources, and derivatively the resources of Kansas citizens, engaged not in the productive endeavor of improving service for utility customers but in addressing problems related to WRI’s nonutility activities. This waste has occurred not because of the Commission’s policies but because of WRI’s behavior.

119. This Order has removed the immediate opportunities, created by WRI, to use the utility businesses to benefit the nonutility business. The Commission has also initiated a process by which the Commission will determine an appropriate relationship between WRI’s utility business and its nonutility businesses. However, Staff and intervening parties have requested a management investigation to focus on management’s ability to address the problems the utility businesses find themselves in. While the record supports fully and completely a management investigation, the Commission declines to do so at this time. The Commission hopes that as result of this Order, the management will focus less on nonutility businesses and more on bringing innovation and excellence to the utility business. The Commission notes that the utility’s infrastructure continues to provide electric service to over 600,000 customers and remains a stable source of revenue for the company. However, the Commission reserves the option to initiate a management investigation if and as warranted by subsequent events or information.

IT IS THEREFORE, BY THE COMMISSION ORDERED THAT:

(A) The foregoing statements, discussion and analysis are hereby adopted as findings and conclusions of the Commission.

(B) The Commission rejects WRI's Financial Plan, as amended.

(C) WRI is directed to initiate corporate restructuring in accordance with the parameters provided above and to submit a corporate restructuring plan for Commission approval along with new CAM procedures for the electric subsidiary or subsidiaries required by this Order within 90 days from the date of this Order.

(D) WRI is further directed to reverse the accounting transactions described herein and to comply with the reporting requirements and

(E) The prohibitions as set forth in the July 20, 2001 Order at Ordering Clauses (B), (C) and (D) shall remain in full force and effect until further order of the Commission.

(F) WRI shall take immediate action to reduce the excessive consolidated debt consistent with the principles discussed herein and shall provide the Commission reports addressing consolidated debt reduction on a quarterly basis beginning with the quarter ending December 31, 2002.

(G) WRI shall not take any action that results, directly or indirectly, in its regulated electric public utilities subsidizing unregulated business activities and shall abide by the interim standstill protections established herein.

(H) The Commission directs the investigation to consider standards and guidelines to govern affiliate relations within the WRI corporate family. The parties shall file comments on the list or questions set forth in Appendix A, within 30 days from the date of this Order.

(I) This Order will be served United States mail to all of the parties in this docket. A party may file a Petition for Reconsideration of this Order within fifteen (15) days, plus three (3) days for service by mail, of the date of this Order.

(J) The Commission has jurisdiction over the subject matter and the parties pursuant to K.S.A. 66-101 *et seq.* that jurisdiction is continuing over the subject matter and parties for the purpose of entering such further orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Wine, Chr., Claus, Com.; Moline, Com.

Dated: Nov. 08, 2002

/s/ Jeffrey S. Wagaman
Jeffrey S. Wagaman
Executive Director

Appendix A

Investigation of Utility Affiliation With Non-Utility Businesses

Rationale for the Investigation

The corporate restructuring of WRI leaves WRI still holding a combination of regulated utility businesses, and unregulated businesses and investments. The joint control of these two types of business still leaves in place the risk that the utility businesses will bear risks and costs associated with the nonutility businesses.[1] The financial and corporate restructuring discussed in Order 51 therefore must be accompanied by appropriate guidelines for the amount and type of nonutility businesses with which the utility businesses may be affiliated, as well as the type of affiliate transactions they may engage in.

Questions for the Investigation

The Commission expects its investigation to cover the questions set forth below, among others. Within 30 days of this order, parties shall submit to the Commission additional questions they believe should be considered. Shortly thereafter, the Commission will issue an order setting forth the final question list and a schedule for submissions.

The questions cover five topics: (a) new nonutility investment, (b) interaffiliate agreements, (c) issuances of debt, (d) ownership of WRI stock and (e) reports.

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[1] The equity component of the utility's capital structure can be harmed or impaired even though inappropriately but incurred costs are excluded from rates. That is, if costs incurred by the regulated electric business are not included in rates, the revenue shortfall will decrease the common equity in the capital structure.

I. New Nonutility Investment

A. Type and Amount of Investment

1. Should the Commission limit the dollar amount of investment in nonutility businesses, and types of such businesses, with which the utility business may be affiliated?

2. What quantity limits should exist? (e.g., percentage of the value of utility assets, percentage of value of all affiliated assets, percentage of retained earnings in the utility or in the entire corporate family).

3. What type-of-business limits should exist? (e.g., energy-related vs. non-energy related, domestic vs. foreign, industries in which management has proven success)

B. Notification and Approval of Investment Plans

1. Should the Commission require WRI to seek Commission approval for — a. any new or expanded lines of nonutility business or investment ventures entered into by WRI or any of WRI's affiliates or b. any change or transfer of rights, obligations, or assets between or among the regulated electric subsidiaries, WRI and any of WRI's affiliates?

2. Should there be a de minimis or safe harbor exception from Commission review and approval for certain amounts or types of investment?

3. What criteria should the Commission apply in reviewing such investments?

4. As an alternative to advance approval, is it sufficient for the Commission to place no limits on investment but to require after-the-fact notice of such investments?

II. Interaffiliate Agreements

A. In General

1. Should the Commission require that any agreements between WRI and any of WRI's subsidiaries or affiliates be filed with the Commission for review and approval prior to their implementation?

2. Should there be a de minimis or safe harbor exception from Commission review and approval?

B. Loans from the Utility Business to Other Affiliates

1. With respect to loans from the utility business to other affiliates, should the Commission –

a. prohibit them

b. allow them up to a certain amount

c. allow them only for certain purposes

d. allow them subject to certain advance approvals

e. allow them subject to certain reporting requirements, such as reporting –

(1) the date of the transfer, the amount of the transfer, the maturity date, if any, of the transfer, and the interest earning rate on the transfer

(2) the security provided

(3) daily balances of borrowings for each individual borrowing

(4) the duties and responsibilities of each cash transfer participant

(5) the methods of calculating interest

(6) the purpose of the loan and any restrictions on the borrower's use of the proceeds

2. How should the foregoing concepts be applied where the lender is not the utility but instead is the holding company (i.e., when KPL becomes a subsidiary of the holding company)?

C. Interaffiliate Transfers of Cash and other Assets

1. The cost allocation manual and reporting requirements described in Part IV of the Order should provide the

Commission with some information concerning interaffiliate accounting practices. In light of WRI's history of improper use of utility resources to support nonutility ventures, there is a further need for standards regarding interaffiliate transactions. Examples of standards, on which the parties can comment, appear below.

2. Dividends

a. As explained in Part IV of the Order, WRI has attributed excess debt to its utility business. Even after the KPL utility business is moved from WRI to a subsidiary, the level of debt secured by utility assets will be of such magnitude that the electric utility subsidiary or subsidiaries, at least initially, may hold debt which should be the responsibility of WRI's nonutility businesses. The Commission therefore has ordered that WRI expeditiously pay down utility-secured debt to the level correctly attributable to the regulated electric subsidiaries.

b. This need to pay down debt gives rise to several questions:

(1) Should the Commission prohibit the regulated electric subsidiary or subsidiaries from paying a dividend to WRI, except as determined under particular guidelines? Consider, for example, the following possible guidelines:

(a) When the quarterly dividend is limited: Limit the quarterly dividend for any quarter in which the combined regulated electric subsidiaries' common equity percentage for the previous quarter-ending balance sheet is less than 45 percent of total capital. (For purposes of determining this limitation, total capital would be the sum of common equity, preferred equity, long-term debt, quarterly income preferred securities, and current maturities of long-term debt and short-term debt.)

Should an exception to this type of limitation be available when the total consolidated debt level of the regulated electric subsidiaries for the immediately previous quarter-ending balance sheet falls below $1.5 billion or some other amount?

(b) Maximum dividend when limited: During quarters in which cash transfers from the regulated electric subsidiaries to WRI in the form of a dividend is limited pursuant to criteria set forth above, should the maximum cash transfers to WRI in the form of a dividend be limited to a percentage, such as 85 percent of the cash dividend payable to WRI's common equity shareholders?

(2) What facts exist to support the findings required by K.S.A. 66-1214 (relating to Commission-imposed restrictions on dividends)?

3. Cash Transfers Other Than Dividends

a. Given WRI's history of using the cash flow of the electric utility to support nonutility businesses, is it necessary to consider limits on the transfer of cash to WRI, or to any affiliate of WRI?

b. Should the Commission limit the frequency or quantity of such transfers?

c. For example, should the Commission require that a prerequisite to any loan by the electric business be that WRI shall maintain a minimum common equity percentage of, say, 30 percent of total capital in WRI's consolidated capital structure and WRI must maintain investment grade credit ratings?

d. Should the Commission require advance notice and approval of such transfers?

e. Should the Commission require that any such transfer be recorded as a a loan or receivable payable to the regulated electric subsidiary or subsidiaries, and be supported by contract documents obligating the nonutility?

4. Interest

a. Should the Commission require that the outstanding balance of loans from the regulated electric subsidiaries to either WRI, or to any WRI affiliate, accrue interest payable to the regulated electric subsidiary from the debtor at an interest rate equal to the nonutility's incremental cost of debt, comparable to what the borrower would pay to an unaffiliated lender?

5. Asset Transfers

a. What conditions should the Commission place on asset transfers from the utility business to other affiliates?

b. For example, should the Commission require

(1) advance approvals of asset transfers exceeding a particular dollar value?

(2) demonstrations that the price of the transfer meets some standard, such as the higher of market or book cost?

c. What types of assets should be subject to these or other requirements?

III. Issuances of Debt

A. Should the Commission require advance approval before debt issuances (a) by the utility subsidiaries, (b) by the chief holding company, or (c) by nonutility affiliates or their holding companies?

B. Should the Commission prohibit, limit or require advance approval of, the pledging of utility resources as security for loans obtained for nonutility purposes?

IV. Ownership of WRI stock

Assuming nonutility businesses continue to exist in the WRI corporate family,

1. Should the Commission prohibit ownership by them or by Westar Industries, of stock in WRI?

2. Should the Commission direct how they are held, whether they be owned by WRI directly or through an intermediate holding company like Westar Industries?

V. Reports

A. Affiliate Descriptions

Should the Commission require WRI to provide the Commission, annually, an explanation and description of all affiliates, their relationship to each other and to the regulated electric subsidiaries, the types of business in which they are involved, and a listing of their exact names and home office addresses?

B. Organization Charts

2. Should the Commission require WRI to maintain and file organizational charts with the Commission periodically?

3. Should these charts include:

a. WRI, the regulated electric subsidiaries and WRI's other nonutility businesses;

b. reporting requirements among management of WRI, utility subsidiaries and WRI's other nonutility businesses and;

c. additional information?

C. Affiliate Transactions

1. Should the Commission require WRI to provide the Commission a periodic summary and explanation of any transactions or agreements between regulated electric subsidiaries and WRI or the regulated electric subsidiaries and any of WRI's affiliates?

2. If so, what information should be contained in these reports? D. Affiliate Financial Statements 1. Should the Commission require WRI to provide the Commission the total market value for each nonutility investment on a periodic basis for which such investment exceeds a market value of some dollar threshold? 2. Should the Commission require WRI to provide the Commission, periodically, the balance sheet and income statement for each of WRI’s nonutility affiliates having a book value of assets exceeding some minimum figure?

D. Affiliate Financial Statements

1. Should the Commission require WRI to provide the Commission the total market value for each nonutility investment on a periodic basis for which such investment exceeds a market value of some dollar threshold?

2. Should the Commission require WRI to provide the Commission, periodically, the balance sheet and income statement for each of WRI’s nonutility affiliates having a book value of assets exceeding some minimum figure?