

Testimony of James Ludwig
Executive Vice-President Public Affairs and Consumer Services
Westar Energy
February 6, 2008

The identical bills, HB 2711 and SB 515, were clearly written with the intent to permit construction of *new* baseload coal plants. In pursuit of that intention, Westar believes the proponents have inadvertently overlooked how this legislation affects *existing* fossil fuel power plants and that it ignores the biggest, most effective carbon mitigation source already in place in Kansas. We provide these comments to correct what we believe are unintended consequences and respectfully request that you accordingly amend this legislation.

Westar does not object to building new baseload generation in Kansas. We also agree that it has to be added in an environmentally responsible way. Although we have found a way to delay making a commitment to additional baseload generation for a few years, we acknowledge that it will eventually become imperative for Westar to add baseload generation to our system to assure reliable electric service to both our retail customers and our Kansas firm wholesale customers. In addition to new baseload resources in the future, Westar's plan to meet consumers' growing needs for electricity also includes new natural gas and renewable generation sources, energy efficiency, and enhancements of our existing nuclear and fossil fuel (coal and natural gas) plants.

Net versus Gross CO2 Emissions per MWh

On page 8, lines 2 through 7, the CO2 limits are described in pounds per net megawatt hour (MWh). Westar suggests using pounds per gross MWh. The intent of this section is to drive down the overall CO2 emissions. Using net MWh only captures those emissions for generation used for customers. Emissions attributable to auxiliary power, the typically large amount of power consumed by the power plant itself, are ignored. Auxiliary power is also called "station power" or "parasitic load." For example, we are in the midst of installing scrubbers at Jeffrey Energy Center (JEC) along with other modifications to reduce regulated air emissions. When the scrubbers are turned on, the amount of station power increases substantially without any increase in CO2 emissions. Thus the bills' use of net MWh as a way to measure carbon emissions would actually disadvantage JEC even though CO2 emissions did not increase. Stated another way, using net instead of gross MWh penalizes investment required by law to reduce other types of air emissions than CO2. The use of gross MWh would quantify actual increases/decreases in CO2 emissions, properly taking into consideration both consumer load and auxiliary power. Elsewhere in the bill, pounds per MWh are used without clarifying whether they are gross or net. We

believe use of consistent gross units will help prevent disagreements about compliance.

Conforming Definitions on Reconstruction with Current Law

We suggest changing page 7, lines 24 – 27, to read:

"Reconstruct" or "reconstruction" means any rebuilding of an emission source within an existing affected facility which generates electricity from fossil fuel that would result in the significant emission increase of nitrous oxide and sulfur dioxide as defined under 40 CFR 52.21(b)(23) and increase carbon dioxide emissions from such facility.

We believe the current provisions in this legislation would trigger requirement of carbon mitigation for any type of modification of the affected unit that could impact fuel usage. This is much more restrictive than current federal regulation and Kansas policy. Our suggested change aligns this legislation on carbon mitigation to the similar federal regulations that set a threshold level for criteria pollutants below which no mitigation would be required. It would prevent triggering carbon restrictions at existing fossil fuel plants when only routine maintenance and capital expenditures were involved to keep the plant in good working order.

Credit for Carbon Mitigation Measures

1. The single largest, most effective mitigation of CO₂ and other air emissions within the electric utility sector in Kansas today is the Wolf Creek Nuclear Generating Station. Wolf Creek has zero air emissions – no CO₂, no other green house gases, no SO₂, no nitrogen oxide, no particulates, no mercury. At the highest capacity factor of any plant in the state, its carbon mitigation may exceed all other types of electric utility mitigation combined. Each year, Wolf Creek's owners make substantial capital investments at the plant to keep it in good working order and retain its carbon mitigating effects. Yet this legislation does not acknowledge this fact. We believe it should recognize Wolf Creek by allowing its production to offset coal or natural gas-fired CO₂ emissions. Therefore, we suggest on page 9, line 7 to strike "constructed after January 1, 2008."

2. Some of the most environmentally pristine areas in Kansas today are found at Westar's power plants. The water quality at Coffey County Lake (Wolf Creek's cooling lake) is among the best in the state because of the watershed land management practiced by Wolf Creek's owners. The trees and grasslands surrounding the lake are excellent sources of carbon capture. The property on which Jeffrey Energy Center is located is also environmentally protected and stores carbon. Those properties and many other utility properties Westar owns are not in Westar's retail service territory. They are in the service territories of rural electric cooperatives. Westar has been a leader in restoring native prairie

at the National Tallgrass Preserve near Strong City. Some scientific studies show that native grassland restoration is as effective, if not more effective, than forest restoration in capturing and storing atmospheric carbon. But our efforts at the Preserve, and similar efforts in many of the nearly two hundred other projects for prairie restorations and tree plantings are outside our service territory. To grant more carbon mitigation credit to properties inside a utility's service territory than outside ignores two facts: (1) most of Westar's service territory is located within cities and towns where such opportunities for carbon mitigation are limited; and (2) CO₂ emissions are atmospheric, and therefore mitigation efforts, whether inside or outside Westar's service territory, have the same beneficial effect. Discriminating in favor of one over the other has no scientific basis. Current bill language allows for a 3X multiplier credit for projects located in Kansas plus an additional 2X multiplier credit if the project is located in the utility's service territory. We suggest on page 9, amending line 28 through 31 to read, "equal to five times the actual carbon dioxide tonnage sequestered as a result of such projects in Kansas."

3. The section on the retirement of generating units should also be changed to allow for offsets from any retirements of fossil fuel plants, regardless if the same fuel is used in the replacement plant. In support of this suggestion, we return to the purpose of this section of the legislation – to mitigate emissions of carbon dioxide. Whether burning coal or natural gas generates the carbon dioxide should not matter. The goal is carbon mitigation. On page 10, lines 23 and 24 we suggest changing the date to July 1, 1995 and deleting "on or after July 1, 2008, and which combusted the same fuel as the affected facility." We also suggest deleting lines 27 through 30, beginning with "Such offset credit..." We have retired some of our natural gas units and believe that reduction in carbon dioxide emissions should have an offset value under this bill. We are replacing these old retired units with higher efficiency natural gas peaking units.

In future sessions, if this legislation becomes law, it will have many repercussions that will need to be addressed. It establishes the Kansas electric generation, transmission and efficiency study commission that will likely have to deal with other unforeseen consequences and developments. We respectfully request that the legislature address the unintended consequences we have identified this session.