

**BEFORE THE ARKANSAS PUBLIC SERVICE COMMISSION**

**IN THE MATTER OF AN INTERIM RATE )  
SCHEDULE OF OKLAHOMA GAS AND )  
ELECTRIC COMPANY IMPOSING A )  
SURCHARGE TO RECOVER ALL )  
INVESTMENTS AND EXPENSES INCURRED )  
THROUGH COMPLIANCE WITH LEGISLATIVE ) DOCKET NO. 15-034-U  
OR ADMINISTRATIVE RULES, REGULATIONS )  
OR REQUIREMENTS RELATING TO THE )  
PUBLIC HEALTH, SAFETY OR THE )  
ENVIRONMENT UNDER THE FEDERAL )  
CLEAN AIR ACT FOR CERTAIN OF ITS )  
EXISTING GENERATION FACILITIES )**

**SETTLEMENT TESTIMONY OF KEVIN LEMLEY**

**ON BEHALF OF**

**THE ARKANSAS ATTORNEY GENERAL**

**SEPTEMBER 25, 2015**

1 **Q. Would you please state your name, position, and business**  
2 **address?**

3 A. I am Kevin M. Lemley. I am Assistant Attorney General in the  
4 utilities division the Arkansas Attorney General's Office. My business  
5 address is 323 Center Street, Suite 400, Little Rock, AR 72201.

6 **Q. Please provide your background and qualifications.**

7 A. I have been in the utilities division of office of the Attorney General  
8 since March 2015. I received a BBA in Finance from the University of  
9 Central Arkansas in 2000, and I received my J.D. from The University  
10 of Arkansas at Little Rock School of Law in 2003. Additionally, I  
11 received my LL.M. from the University of Houston Law Center in  
12 2004.

13 I was engaged in the private practice of law in Little Rock from 2005  
14 through 2010. From 2010 through 2012, I was a Staff Attorney  
15 representing Staff. I returned to the private practice of law in Little  
16 Rock from 2012 through 2015 until I joined the Attorney General's  
17 office. Over the last five years, I have handled and supervised many  
18 utilities proceedings before the Commission. Also over the last five  
19 years, I have attended numerous training programs, seminars and  
20 forums dealing with regulated utilities. Since joining the office in the  
21 utilities section, I have represented the interests of Arkansas utility  
22 customers in proceedings before the Arkansas Public Service  
23 Commission and other administrative agencies. I have also assisted  
24 the Attorney General in working with the Arkansas General Assembly  
25 and its committees on utility matters.

26 **Q. On whose behalf are you appearing?**

1 A. I am appearing on behalf of the Consumer Utilities Rate Advocacy  
2 Division of the Arkansas Attorney General's Office. I will present our  
3 division's positions and recommendations in regard to the proposed  
4 Stipulation and Settlement Agreement (Agreement) among the parties  
5 filing testimony in this proceeding, the Commission General Staff  
6 ("Staff"), Oklahoma Gas & Electric Company ("OG&E"), Arkansas  
7 River Valley Energy Consumers ("ARVEC") Wal-Mart Stores  
8 Arkansas, LLC and Sam's West, Inc ("Wal-Mart") and our office.

9 **Q. What is the role of the Attorney General's Office in this**  
10 **proceeding?**

11 A. The Consumer Utilities Rate Advocacy Division of the Office of the  
12 Attorney General is charged by statute with representing the interests  
13 of Arkansas ratepayers before the Arkansas Public Service  
14 Commission. In that capacity, we have participated in this proceeding  
15 to try to ensure a result that provides the most benefits to the most  
16 customers, under the circumstances.

17 **Q. Could you summarize the Attorney General's overall**  
18 **recommendation?**

19 A. We recommend that the Agreement that is being filed today be  
20 approved by the Commission, as being in the public interest.

21 **Q. What is the background of the Agreement?**

22 A. OG&E is headquartered in Oklahoma City, Oklahoma, and serves  
23 about 65,800 retail customers in Arkansas (out of a total of 811,000 in  
24 Oklahoma and Arkansas). It brought this action to recover for  
25 expenses and investments incurred to comply with certain  
26 environmental regulations. The Company originally calculated a  
27 revenue requirement of \$489,934 for these costs that will be collected

1 through the surcharge for June, 2015 through May, 2016. The average  
2 residential customer's bill, based upon the use of 1,000 kWhs per  
3 month, would increase \$0.22 per month.

4 The AG initially opposed OG&E's calculation and recommended  
5 recovery of no more than \$397,752. However, the majority of the AG's  
6 adjustment was for CWIP, and the AG accepts that this is authorized  
7 by statute. Staff calculated the revenue requirement as \$473,299, so  
8 that the AG's suggested adjustments are not longer material in  
9 amount.

10 Wal-Mart and ARVEC did not challenge the calculation of the revenue  
11 requirement. However, they both argued that the Commission should  
12 apply the Average & Excess 4CP ("A&E 4CP") cost allocation to this  
13 docket rather than the Commission-approved cost allocation from  
14 OG&E's last general rate case.

15 **Q. Could you summarize the reasons that the Attorney General**  
16 **contends that the Agreement is in the public interest?**

17 A. At this stage, the main issue in dispute was the cost allocation  
18 methodology to apply. The AG opposed applying A&E 4CP. One of the  
19 AG's main concerns was that cost allocation is a complex issue that  
20 should be addressed in a general rate case rather than a surcharge  
21 docket. Specifically, the Agreement addresses our concern in the  
22 following ways:

- 23 1. The revenue requirement is \$473,299, as calculated by Staff;
- 24 2. The revenue requirement is allocated using the Commission-  
25 approved cost allocation provided in OG&E's last rate case.

1           3.     OG&E has committed to filing a rate case in 2016. Presumably,  
2                     the parties will address cost allocation in that 2016 general rate  
3                     case.

4     **Q.    Do you feel this Agreement is reasonable and in the public**  
5           **interest?**

6     A.    Yes.    On this basis I recommend that it be approved by the  
7           Commission.

8     **Q.    Does this complete your testimony, Mr. Lemley?**

9     A.    Yes, it does. Thank you.

## CERTIFICATE OF SERVICE

I, Shawn McMurray, do hereby certify that on the 25th day of September, 2015, I provided a copy of the above and foregoing Testimony to the following at the indicated email address or by first class mail, postage prepaid, if no email address is indicated:

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/s/ Shawn McMurray  
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