

**BEFORE THE CORPORATION COMMISSION OF OKLAHOMA**

IN THE MATTER OF THE APPLICATION OF )  
OKLAHOMA GAS AND ELECTRIC COMPANY ) CAUSE NO. PUD 201600059  
FOR COMMISSION APPROVAL OF THE )  
COMPANY'S PLAN TO INSTALL DRY )  
SCRUBBERS AT THE SOONER GENERATING ) ORDER NO. **650330**  
FACILITY )

HEARING: February 23, 24, 25 and 29, 2016, in Courtroom 301  
2101 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105  
*Before the Oklahoma Corporation Commission En Banc, with Referee Ben Jackson*

APPEARANCES: Kimber L. Shoop, Patrick D. Shore, William L. Humes and William J. Bullard, Attorneys *representing* Oklahoma Gas and Electric Company  
Natasha M. Scott, Attorney *representing* Public Utility Division, Oklahoma Corporation Commission  
Dara M. Derryberry and C. Eric Davis, Attorneys *representing* Office of Oklahoma Attorney General, State of Oklahoma  
Thomas P. Schroedter and Jennifer H. Castillo, Attorneys *representing* Oklahoma Industrial Energy Consumers  
Ronald E. Stakem and Jack G. Clark, Jr., Attorneys *representing* OG&E Shareholders Association  
Deborah R. Thompson, Attorney *representing* AARP  
Cheryl A. Vaught, Scot A. Conner and Jon Laasch, Attorneys *representing* Oklahoma Energy Results, LLC  
Jim Roth, Marc Edwards and Dominic D. Williams, Attorneys *representing* Oklahoma Cogeneration L.L.C. Association  
Jacquelyn L. Dill, Kristin A. Henry and Susan Laureign Williams, Attorneys *representing* Sierra Club  
Charles Helm, Attorney *representing* JMA Energy and Continental Resources  
A.J. Ferate, Attorney *representing* Oklahoma Independent Petroleum Association

**ORDER GRANTING MOTION TO ESTABLISH PROCEDURAL SCHEDULE**

The Corporation Commission ("Commission") of the State of Oklahoma being regularly in session and the undersigned Commissioners present and participating, there comes on for consideration and action the Motion to Establish Procedural Schedule ("Motion") filed by Oklahoma Gas and Electric Company ("OG&E" or "Company") on February 12, 2016. The Motion was set for hearing on February 23, 2016, and was continued by agreement of the parties to February 24, 2016. On February 24, 2016, the Motion was continued by agreement of the parties to February 25, 2016. On February 25, 2016, the Motion was continued by agreement of the parties to February 29, 2016. On February 29, 2016, the Motion was heard and recommended.

## **I. PROCEDURAL SCHEDULE**

<b><u>DATE</u></b>	<b><u>ACTION</u></b>
March 14, 2016	Deadline for filing Responsive Testimony
March 18, 2016	Deadline for filing Statements of Position
March 23, 2016	Deadline for Rebuttal Testimony
March 28, 2016	Deadline for Pre-trial Motions and Briefs
March 30, 2016	Testimony Summaries filed; Pre-hearing conference; all Pre-trial motions heard in Courtroom 301 at 10:30 am.
April 4, 2016	Hearing on the Merits, <i>en banc</i> , Courtroom 301 at 1:30 p.m.

## **GENERAL PROVISIONS**

### **I. ORDER AND PRESENTATION OF TESTIMONY**

The hearing on the merits shall be heard before the Commission *En Banc*. The hearing shall commence on April 4, 2016 at 1:30 p.m., and continue until the record is closed. The hearing shall continue each day thereafter, until the record is closed, unless otherwise directed by the Commission. The hearing will be heard in Courtroom 301 of the Jim Thorpe Office Building, unless the Commission directs otherwise.

#### **A. OKLAHOMA GAS AND ELECTRIC COMPANY**

1. At the commencement of the hearing, each witness for OG&E shall read into the record a concise, written summary of his/her prefiled direct and rebuttal testimony through direct examination by counsel, which shall be done in lieu of oral direct testimony. OG&E shall then be permitted to offer oral surrebuttal testimony in response to any new matters raised in the rebuttal testimony filed by the other parties.
2. After the summaries and prefiled direct and rebuttal testimony and oral surrebuttal testimony of the witness have been submitted into the record, the witness shall be tendered for oral cross-examination and redirect examination.
3. Any redirect examination will be limited to issues that were raised during cross-examination.

#### **B. INTERVENORS**

1. After OG&E has presented a summary of its pre-filed direct and rebuttal testimony and any oral surrebuttal testimony, each Intervenor shall have their witness(es) read into the record a concise, written summary of his/her pre-filed responsive and/or rebuttal testimony, which shall be done in lieu of oral responsive or rebuttal testimony through direct examination by counsel which shall be done in lieu of oral testimony. Each Intervenor shall then be permitted to offer oral sur-rebuttal testimony in response to any new matters raised in the rebuttal testimony filed by the other parties.

2. After the summaries, prefiled responsive testimony, rebuttal testimony, and oral sur-rebuttal of the witness(es) have been submitted into the record, the witness(es) shall be tendered for oral cross-examination and redirect examination.
3. Any redirect examination will be limited to issues that were raised during cross-examination.

**C. ATTORNEY GENERAL**

1. After Intervenors have presented their responsive testimony, rebuttal testimony and any oral sur-rebuttal testimony, the Attorney General shall have his witness(es) read into the record a concise, written summary of their prefiled responsive and/or rebuttal testimony, which shall be done in lieu of oral responsive or rebuttal testimony. The Attorney General shall then be permitted to offer oral sur-rebuttal testimony in response to any new matters raised in the rebuttal testimony filed by the other parties.
2. After the summaries, prefiled responsive testimony, pre-filed rebuttal testimony and oral sur-rebuttal of the witness(es) have been submitted into the record, each witness(es) shall be tendered for oral cross-examination and redirect examination.
3. Any redirect examination will be limited to issues that were raised during cross-examination.

**D. PUBLIC UTILITY DIVISION STAFF**

1. After Intervenors and the Attorney General have presented their responsive and/or rebuttal testimony and any oral sur-rebuttal testimony, Staff shall have its witness(es) read into the record a concise, written summary of their prefiled responsive and/or rebuttal testimony, which shall be done in lieu of oral responsive and rebuttal testimony. Staff shall then be permitted to offer oral sur-rebuttal testimony in response to any new matters raised in the rebuttal testimony filed by the other parties.
2. After the summaries, prefiled responsive and rebuttal testimony and oral sur-rebuttal testimony of the witness(es) have been submitted into the record, the witness shall be tendered for oral cross-examination and redirect examination.
3. Any redirect examination will be limited to issues that were raised during cross-examination.

**E. SUR-SURREBUTTAL**

1. Due to OG&E having the burden of proof and consistent with the Order of Proof specified in OAC 165:5-13-3(f), after other parties have presented their testimony summaries, statements of positions, and oral surrebuttal testimony, OG&E may be allowed to present oral sur-surrebuttal testimony provided OG&E can show that other

parties have raised new issues which OG&E was unable to adequately address through cross-examination. The oral sur-surrebuttal shall be strictly limited to the new issues.

2. Once OG&E has presented its oral sur-surrebuttal testimony, the witness(es) shall be tendered for cross and redirect examination. Any cross-examination shall be limited to the issues addressed in the sur-surrebuttal testimony. Any redirect examination will be limited to issues that were raised during cross-examination.
3. After OG&E's sur-surrebuttal testimony and cross-examination, if any party deems it necessary to request of the Commission that it be allowed to present further sur-surrebuttal type testimony, the Commission shall evaluate the request and make a determination based on the following criteria:
  - a. Whether or not any new issues have been raised during oral sur-surrebuttal.
  - b. Whether or not the party was able to adequately respond to the new issue during cross-examination.
  - c. Whether or not additional testimony/evidence is needed as a matter of due process to the requesting party.
  - d. Whether or not the additional testimony/evidence is necessary to perfect the record.
  - e. Whether or not the additional testimony/evidence is cumulative in nature and has been previously and sufficiently addressed.
  - f. Whether or not any statutorily imposed time will permit further testimony/ evidence.

## **II. SUMMARIES AND STATEMENTS OF POSITION, EXHIBITS AND AGREEMENTS BETWEEN THE PARTIES (PROCEDURE FOR DISCOVERY, OBJECTIONS AND SUSPENDING PROCEDURAL SCHEDULE)**

### **A. DISCOVERY AND OBJECTIONS**

1. Responses to discovery requests on OG&E's direct testimony shall be due five (5) business days from receipt. Responses to discovery requests on responsive and rebuttal testimony shall be due five (5) business days from receipt. Any objections to a discovery request shall be in writing and presented by the objecting party within three (3) business days of the receipt of the discovery request. A hearing on such objections shall be set within two (2) business days, unless specifically set on dates that are otherwise agreed to in advance and in writing by the parties.
2. Calculation of days for discovery purposes shall be determined to be on or before 3:00 p.m. Any filing or service made after 3:00 p.m. shall be deemed to be the following business day.

3. Any objections regarding the testimony or qualification of any witness shall be filed by motion and set for hearing prior to the commencement of the hearing on the merits. Where an objection due date falls on a Saturday, Sunday or a legal holiday, the objection must be presented the following business day. A hearing on such objections shall be set at the discretion of the Commission after consultation with the parties.
4. Data requests and responses are not required to be filed with the Court Clerk's Office, but shall be provided to all parties of record and may be referred to and utilized as exhibits at the hearing on the merits in this cause.
5. Data Requests are limited to no more than twenty five (25) per day, including subparts, and responses must be served by electronic transmission, facsimile or hand-delivery.

**B. TESTIMONY SUMMARIES, STATEMENTS OF POSITION AND EXHIBITS**

1. The parties shall file of record and exchange between the parties, summaries of their respective prefiled testimony and, as applicable, statements of position on or before the dates outlined above. Summaries of testimony shall be used in the preparation of the final order and shall be transmitted to all parties and the Commissioners in electronic format.
2. The summaries and statements of position may be referred to and utilized as exhibits in the case. Any party not filing testimony and desiring to cross-examine witnesses at the hearing must file a position statement on or before March 18, 2016.
3. Each party presenting or cross examining any witness, on or before March 30, 2016, shall file of record and exchange between the parties, an exhibit list of all potential exhibits which may be utilized at the hearing in support of direct, responsive and rebuttal testimony.
4. However, if for good cause shown a party finds it necessary during the hearing to present an additional exhibit(s) which was not listed on the exhibits list, such exhibit(s) shall not be allowed unless submitted to all parties at least twenty-four (24) hours prior to the usage and permitted by the Commission. The parties reserve the right to waive this provision by agreement of the parties.
5. In addition, with respect to any additional exhibits not already produced during discovery that will be used by a party during oral rebuttal testimony, such exhibit(s) shall not be allowed unless submitted to all parties at least four (4) days prior to the usage and permitted by the Commission. The parties reserve the right to waive this provision by agreement of the parties.

**C. AGREEMENTS BETWEEN THE PARTIES**

1. If the parties are able to dispose of the issues of this Cause by way of negotiated settlement, subsequently approved by the Commission, the dates contained herein may be modified as may be appropriate.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

THE COMMISSION FINDS that it is vested with jurisdiction in this Cause pursuant to Article IX, Section 18 of the Oklahoma Constitution and 17 O.S. Sections 151 *et seq.*

THE COMMISSION FURTHER FINDS that the procedural schedule and the General Provisions set forth herein should be adopted by the Commission and adhered to by the parties until modified by subsequent Commission order.

THE COMMISSION FURTHER FINDS that if the parties are able to dispose of the issues of this Cause by way of negotiated settlement, subsequently approved by the Commission, the dates contained herein may be modified as may be appropriate.

**ORDER**

THE COMMISSION ORDERS that the findings of fact and conclusions of law herein shall become the order of the Commission.

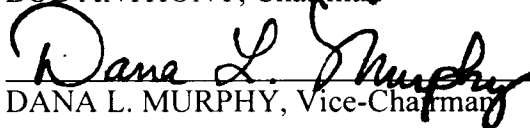
THE CORPORATION COMMISSION FURTHER ORDERS that the procedural schedule and general provisions as set forth herein shall be adhered to by and between the parties to this Cause and the same shall become the order of the Commission.

THIS ORDER SHALL BE EFFECTIVE IMMEDIATELY.

OKLAHOMA CORPORATION COMMISSION



BOB ANTHONY, Chairman



DANA L. MURPHY, Vice-Chairman

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J. TODD HIETT, Commissioner

DONE AND PERFORMED by the Commissioners participating in the making of this order, as shown by their signatures above, this 29<sup>th</sup> day of February, 2016.

[seal]



PEGGY MITCHELL, Secretary