

**BEFORE THE
ARKANSAS PUBLIC SERVICE COMMISSION**

**IN THE MATTER OF THE APPLICATION)
OF OKLAHOMA GAS AND ELECTRIC) DOCKET NO. 16-052-U
COMPANY FOR APPROVAL OF A)
GENERAL CHANGE IN RATES, CHARGES)
AND TARIFFS**

TESTIMONY OF

M. SHAWN McMURRAY

SUPPORTING THE PROPOSED AGREEMENT

on behalf of

**THE OFFICE OF ARKANSAS ATTORNEY GENERAL LESLIE
RUTLEDGE**

April 20, 2017

APSC DOCKET NO. 16-052-U

TESTIMONY OF M. SHAWN McMURRAY
SUPPORTING THE PROPOSED AGREEMENT

Q. Please state your name, position and business address.

A. I am M. Shawn McMurray. I am Senior Assistant Attorney General for the Consumer Utilities Rate Advocacy Division ("CURAD") of the Office of Arkansas Attorney General Leslie Rutledge. My business address is 323 Center Street, Suite 400, Little Rock, AR 72201.

Q. Please provide your background and qualifications.

A. I have been in charge of CURAD since April 1996. I received a B.A. degree with Honors from Louisiana State University in December 1977, where I was a member of Phi Beta Kappa, and I received my J.D. degree from Georgetown University Law Center in 1982. Since I began work for the Attorney General, I have attended numerous training programs, seminars and forums dealing with regulated utilities.

After graduation from Georgetown, I was engaged in the private practice of law in New Orleans from 1982 through 1992, until I joined the Attorney General's Office as Assistant Attorney General in January 1993. Since joining the Office in the utilities section, I have represented the interests of Arkansas utility customers in proceedings before the Arkansas Public Service Commission ("Commission") and other administrative agencies and courts. I have also assisted the Attorney General in working with the Arkansas General Assembly and its committees on utility matters. I have handled and supervised many utilities proceedings.

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

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

9 **Q. What is the role of the Attorney General in these proceedings?**

10 A. The Attorney General, through CURAD, is charged by statute with
11 representing the interests of Arkansas ratepayers before the Commission.
12 In that capacity, we have participated in this proceeding to try to ensure a
13 result that provides the most benefits to the most customers, under the
14 circumstances.

15 **Q. Would you summarize the Attorney General's overall**
16 **recommendation?**

17 A. The Attorney General recommends that the Agreement that is being filed
18 today be approved by the Commission, as being in the public interest.

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

20 A. OG&E serves Arkansas customers in the Fort Smith area. In its original
21 filing, OG&E requested an overall rate increase of approximately \$16.5
22 million (a 9.91% increase in customers' bills), including a \$10.4 million
23 (18.76%) increase in residential rates. This included a recommended
24 return on equity ("ROE") of 10.25%, a capital structure including 53%
25 equity, and a 49% increase in the residential customer charge from \$7.94
26 to \$11.80. The Attorney General recommended a much smaller overall

¹ Sierra Club, the remaining party, has not joined in the Agreement but takes no position on it.

1 increase (no more than \$7.1 million in Direct Testimony), based on several
2 adjustments, including (1) reducing OG&E's requested ROE to a more
3 appropriate level given today's financial reality; (2) altering OG&E's
4 proposed capital structure to a more appropriate, hypothetical one with
5 much less equity; (3) not allowing OG&E to charge ratepayers 100% of the
6 cost of incentives or bonuses that are financially based; (4) not allowing
7 OG&E to recover certain advertising and dues and donations costs that
8 were either not necessary for utility service or did not benefit Arkansas
9 ratepayers; and (5) not allowing OG&E to recover more than 100% of its
10 wind costs because of differing jurisdictional allocation methods between
11 Arkansas and Oklahoma.

12 The Attorney General also recommended changes in rate design in order to
13 encourage energy efficiency and conservation, while avoiding undue
14 negative impact on lower-income customers. In particular, we opposed the
15 mandatory demand charge for residential customers, the elimination of
16 block rates and the large increase in the monthly residential customer
17 charge. We had similar concerns regarding the rate design for small
18 commercial, or general service ("GS"), customers.

19 OG&E also requested a Formula Rate Plan ("FRP") which would adjust
20 rates on an annual basis with an expedited review process by regulators
21 and a compressed time frame, in accordance with Act 725. The Attorney
22 General provided several recommendations in testimony to create
23 ratepayer benefits and protections before approving the FRP, including
24 freezing the capital structure, rather than allowing it to fluctuate.

25 Finally, the Attorney General recommended rejecting OG&E's request for
26 two new riders, the Large Capital addition Rider ("LCA Rider"), and the
27 Storm Damage Rider ("SDR"), as unwarranted and inappropriate.

28 Staff recommended some of the same adjustments as the Attorney
29 General, as well as others. ARVEC also recommended adjustments,

1 including a reduction in the cost to ratepayers of OG&E's allowance for
2 storm damage restoration.

3 **Q. Is the Agreement in the public interest?**

4 Yes. While OG&E, the Staff, the AG, ARVEC and Wal-Mart have all
5 advocated diverse positions, all are willing to accept the Agreement as a
6 compromise. The Agreement is within the range of reasonable litigation
7 outcomes and represents a reasonable result that is in the public interest.

8 **Q. Would you summarize the reasons that the Attorney General
9 contends that the Agreement is in the public interest?**

10 A. The Attorney General recommended a smaller rate increase than OG&E
11 requested overall, and from residential customers. We had specific
12 concerns about the requested FRP, class allocation, and rate design and
13 customer charges. The Agreement addresses the concerns of the Attorney
14 General in this docket in a reasonable way in view of litigation risk. While
15 the Attorney General would prefer that its case be accepted in all
16 particulars, the Agreement is far better for ratepayers than OG&E's initial
17 proposal. Specifically, the Agreement addresses our major concerns on
18 revenue requirement in the following ways:

- 19 1. It reduces the overall rate increase to OG&E customers to
20 approximately \$7.1 million – \$9.4 million less than originally
21 requested (less than half of the initial request), and \$1.3 million less
22 than recommended by Staff in Surrebuttal Testimony;
- 23 2. It lowers the authorized ROE to 9.5%, far less than OG&E's initially
24 requested 10.25%. While this is higher than the ROE recommended
25 by the Attorney General and ARVEC, it is within the range of
26 reasonableness of more than one expert's testimony;

3. It reduces the percentage of equity in the accepted capital structure to 50% from the requested 53%. While this is more equity than recommended by all other parties, it falls within the range of reasonableness established in testimony; and

4. The lower revenue deficiency also reflects several concessions on issues raised by the Attorney General and/ or ARVEC, including:

a. It reflects a disallowance of a portion of incentive compensation based on financial goals in keeping with Commission precedent;

b. It reflects disallowance of certain advertising and dues and donations costs that were either not necessary for utility service or did not benefit Arkansas ratepayers;

c. It changes the jurisdictional allocation of wind generation so as not to allow OG&E to recover more than 100% of its wind costs because of differing jurisdictional allocation methods between Arkansas and Oklahoma; and

d. It reduces the amount charged to ratepayers for OG&E's amortization of the cost of storm damage restoration.

Q. Would you indicate why the Attorney General contends that the allocation of the increase among the major rate classes is in the public interest?

A. While the Attorney General recommended a different class allocation methodology than Staff and OG&E, the Agreement does not endorse or recommend any particular allocation methodology. Furthermore, the allocation of the increase to the various classes contained in the Agreement represents substantial mitigation from both the Company's and Staff's cost of service study, and all major rate classes see rate increases that are lower than in Staff's Surrebuttal case. In all such cases, we are obliged to

1 consider litigation risk. When one compares the respective class increases
2 reflected in OG&E's initial application, the Staff's Surrebuttal cost of
3 service study, and the Staff's recommended mitigation in its Surrebuttal,
4 the respective class allocations are well within the range of reasonable
5 outcomes from litigation. It is also worth noting that, when one considers
6 the proposed reductions or elimination of some riders, the overall increase
7 in residential bills will be 9.1%, compared to the 18.8% increase initially
8 requested by the Company and the 10.6% increase in Staff's Surrebuttal
9 case. Similarly, GS bills will increase 8.4%, compared to the 15.9%
10 increase initially requested by the Company and the 8.9% increase in
11 Staff's Surrebuttal case.

12 **Q. Would you summarize the reasons that other aspects of the**
13 **Agreement are in the public interest?**

14 A. As noted above, we also had specific concerns about the requested FRP,
15 requested riders, rate design, and customer charges. The Agreement
16 specifically addresses our major concerns in the following ways:

- 17 1. It declines to endorse the originally proposed FRP, but makes
18 changes in methodology and procedures, including accepting a fixed
19 capital structure;
- 20 2. It does not include either of the two new riders that were opposed by
21 the Attorney General, LCA Rider and SDR;
- 22 3. Instead of the requested \$11.80 residential customer's monthly
23 service charge (and Staff's recommended \$10.23 in surrebuttal), the
24 Agreement limits the customer charge to \$9.75; and instead of the
25 requested \$28.00 GS customer's monthly service charge (and Staff's
26 recommended \$26.36 in surrebuttal), the Agreement limits that
27 customer charge to \$25.00;

1 4. The Agreement does not include a mandatory residential and GS
2 demand charge, but instead includes only a voluntary demand
3 charge, with a “best bill” provision, and keeps in place the current
4 block structure for those two classes.

5 **Q. Does this complete your testimony, Mr. McMurray?**

6 A. Yes, it does. Thank you.

CERTIFICATE OF SERVICE

I, Kevin Lemley, hereby certify that a copy of the foregoing Testimony has been served upon all parties by electronic mail, or first class mail, postage prepaid, this 20th day of April, 2017.

/s/ Kevin Lemley
Kevin Lemley