

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)**

DIRECT TESTIMONY AND EXHIBITS OF WILLIAM B. MARCUS

ON BEHALF OF

THE ARKANSAS ATTORNEY GENERAL

AUGUST 10, 2015

1 DOCKET NO. 15-034-U

2 DIRECT TESTIMONY OF WILLIAM B. MARCUS

3
4 **Q. Please state your name, business affiliation and address.**

5 A. I am William B. Marcus. I am Principal Economist for JBS Energy, Inc., 311
6 D Street, West Sacramento, California 95605.

7 **Q. Please provide your qualifications.**

8 A. My qualifications are attached as Exhibit WBM-1. I have 37 years of
9 experience with energy utility issues. I have previously testified or made
10 formal comments before about forty federal, state, provincial, and local utility
11 and environmental regulatory bodies in the U.S. and Canada on issues
12 including utility restructuring and performance-based ratemaking, revenue
13 requirements, resource planning, and cost-of-service and rate design. I have
14 filed testimony at this Commission on a number of occasions since 1998.

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

16 A. I am appearing on behalf of the Arkansas Attorney General.

17 **Q. What is the purpose of your testimony?**

18 A. I address the request by Oklahoma Gas and Electric Company ("OG&E" or
19 "the Company") for recovery of costs, initially totaling \$489,934, under Ark.
20 Code Ann. § 23-4-501, *et seq.*, also known as Act 310. I recommend that Act
21 310 recovery be allowed but ratemaking adjustments be made to reduce
22 recoverable costs from \$2,263,926 to no more than \$1,831,662¹ and that the
23 rider to recover these costs be made an exact recovery rider to reflect actual
24 costs and actual revenues (including higher revenues resulting from higher
25 demand in 2015 than in 2009).

¹ The General Staff may recommend additional reductions based upon its review.

1 **Q. What is your conclusion?**

2 A. The inclusion of costs of the Muskogee and Seminole pollution control devices
3 under Act 310 is potentially appropriate in concept.² These are the type of
4 costs for which Act 310 was originally passed – costs that are fairly large
5 relative to the size of a utility and imposed by a new environmental
6 regulation.

7 However, I believe that a portion of the costs requested by OG&E should not
8 be recovered under Act 310. Also, given that OG&E has not filed a rate case
9 in five years, I propose alternative relief to Act 310. I therefore recommend
10 that OG&E's request be reduced by 18.8% from \$489,934 to \$397,752 and
11 that an exact recovery rider be developed to replace OG&E's Act 310 request.

12 **Q. What is OG&E's justification for recovery of these costs in Act 310?**

13 A. Mr. Rowling testifies as follows:

14 OG&E does not have a mechanism to collect in a prompt and timely
15 manner the costs requested for recovery in this docket. There is no
16 current rider provision that allows recovery of the costs of these
17 investments and expenses other than the Act 310 provisions being
18 requested. The only other option is the filing of a general rate case,
19 which can take up to ten months after it is filed before any rate relief is
20 implemented. It also requires many months of preparation and is very
21 time consuming and expensive to prepare and process the filing.

22 **Q. Is Mr. Rowling's statement true?**

23 A. Not entirely. In addition to costs related to plant in service, OG&E is
24 requesting recovery of a return and property taxes on about \$8,863,000 of
25 Construction Work in Progress ("CWIP"). The return and property taxes on
26 CWIP are not normally recoverable on a cash basis in Arkansas, whether a
27 rate case is filed or not. However, OG&E is compensated for CWIP because it
28 is allowed to capitalize an Allowance for Funds Used During Construction

² This is the case whether the Commission applies the Act 310 provisions effective when this case was filed or Act 310 as modified by Act 1000 of 2015.

1 (“AFUDC”). AFUDC constitutes non-cash earnings that are recovered over
2 the life of the project when it comes into service. A utility is also allowed to
3 capitalize property taxes incurred before plant comes into service. Therefore,
4 OG&E has a means under standard regulatory practice to recover the return
5 and property taxes associated with CWIP before it comes into service without
6 resorting to Act 310. Therefore, a return and property taxes on CWIP should
7 not be recovered in this case.

8 **Q. Do you have other concerns?**

9 A. Yes. While I recognize the timing and costliness of a rate case, I also am
10 considering that OG&E has not filed a rate case since 2010. Because of this
11 fact, and recognizing that substantial pollution control investments have
12 been made, I recommend that OG&E be granted alternative relief to an Act
13 310 rider. I recommend that OG&E be granted recovery of the costs but
14 through an exact recovery rider such as Rider GR for Southwestern Electric
15 Power Company’s (“SWEPCO’s”) Stall plant or Rider CA used by Entergy
16 when purchasing power plants or signing power purchase agreements
17 between rate cases.

18 **Q. How does an exact recovery rider work?**

19 A. A revenue requirement is set for OG&E. This revenue requirement is trued
20 up for actual costs (including the normal increase in depreciation reserve over
21 time as the plant is depreciated, and return and taxes associated with any
22 portions of the plant that are actually brought into service). On the other
23 side of the ledger, the actual revenues (rates multiplied by sales) are
24 balanced against the actual revenue requirement. Every year, a true-up
25 filing is made that forecasts costs and sales for the following year and trues
26 up the difference between actual costs and actual revenues collected.

27 **Q. Is there another benefit to OG&E and the Commission of adopting an**
28 **exact recovery rider?**

1 A. Yes. This request is the first in a series of requests that OG&E is likely to
2 file, as it continues to invest money in pollution controls on other projects and
3 continues to bring plant into service. An exact recovery rider would allow
4 plant to be brought into service, on an actual cost basis, as it is completed
5 (while also depreciating existing plant). This is a benefit because the
6 alternative is to file more Act 310 filings every few months, which creates an
7 administrative burden to both the Company and the Commission to prepare
8 and process them.

9 **Q. Procedurally, how could the Commission adopt an exact recovery**
10 **rider?**

11 A. It could allow the Act 310 filing through the date of the order (only modifying
12 it to refund the cash recovery for CWIP identified below) and replace it at
13 that time.

14 **Q. What would be the revenue requirement for either an exact recovery**
15 **rider or an Act 310 rider?**

16 A. I would set the revenue requirement – whether an exact recovery rider is
17 adopted or not – by removing the return and property taxes on CWIP and by
18 adding six months of accumulated depreciation when calculating net plant in
19 service (one half of a twelve-month period).

20 This yields a revenue requirement of \$397,752, as compared to OG&E's
21 request of \$489,934. The bulk of the difference is the removal of a cash
22 return for CWIP. If only CWIP were removed but the accumulated
23 depreciation were not changed (which I do not recommend), the revenue
24 requirement would be \$400,315.

25 I calculate the revenue requirement, and rates for individual customer
26 classes, in Exhibit WBM-2. I allocate costs to customer classes in the same
27 way as OG&E. The only difference is the revenue requirement.

1 **Q. Do you agree with OG&E's cost allocation method?**

2 A. Yes. While Ark. Code Ann. § 23-4-422(b) allows the Commission to consider
3 economic development issues and potentially adopt other methods of cost
4 allocation in a general rate case, this case is not a general rate case, so that
5 this legislation does not apply, and the Commission should follow past
6 practice of allocating costs based on the last available general rate case.

7 **Q. Does this complete your testimony, Mr. Marcus?**

8 A. Yes, it does. Thank you.

Qualifications of William B. Marcus

William B. Marcus has 37 years of experience in analyzing electric and gas utilities.

Mr. Marcus graduated from Harvard College with an A.B. magna cum laude in economics in 1974 and was elected to Phi Beta Kappa. In 1975, he received an M.A. in economics from the University of Toronto.

In July, 1984, Mr. Marcus became Principal Economist for JBS Energy, Inc. In this position, he is the company's lead economist for utility issues.

Mr. Marcus is the co-author of a book on electric restructuring prepared for the National Association of Regulatory Utility Commissioners. He wrote a major report on Performance Based Ratemaking for the Energy Foundation.

Mr. Marcus has prepared testimony and formal comments submitted to the Federal Energy Regulatory Commission, the National Energy Board of Canada, the Bonneville Power Administration, the U.S. Bureau of Indian Affairs, U.S. District Court in San Diego, Nevada County Municipal Court; committees of the Nevada, Ontario and California legislatures and the Los Angeles City Council; the California Energy Commission (CEC), the Sacramento Municipal Utility District (SMUD), the Transmission Agency of Northern California, the State of Nevada's Colorado River Commission, a hearing panel of the Alberta Beverage Container Management Board; two arbitration cases, environmental boards in Ontario, Manitoba, and Nova Scotia; and regulatory commissions in Alberta, Arizona, Arkansas, British Columbia, California, Colorado, Connecticut, District of Columbia, Hawaii, Iowa, Manitoba, Maryland, Massachusetts, Nebraska, Nevada, New Jersey, New Mexico, North Carolina, Northwest Territories, Nova Scotia, Ohio, Oklahoma, Ontario, Oregon, South Carolina, Texas, Utah, Vermont, Virginia, Washington, Wisconsin, and Yukon. He testified on issues including utility restructuring, stranded costs, Performance-Based Ratemaking, resource planning, load forecasts, need for powerplants and transmission lines, environmental effects of electricity production, evaluation of conservation potential and programs, utility affiliate transactions, mergers, utility revenue requirements, avoided cost, and electric and gas cost of service and rate design.

From July, 1978 through April, 1982, Mr. Marcus was an economist at the CEC, first in the energy development division and later as a senior economist in the CEC's Executive Office. He prepared testimony on purchased power pricing and economic studies of transmission projects, renewable resources, and conservation programs, and managed interventions in utility rate cases.

From April, 1982, through June, 1984, he was principal economist at California Hydro Systems, Inc., an alternative energy consulting and development company. He prepared financial analyses of projects, negotiated utility contracts, and provided consulting services on utility economics.

Arkansas Testimony

Arkansas Electric Cooperative Corporation ("AECC") Dockets 12-012-U and 04-141-U

Arkansas Oklahoma Gas Corporation ("AOG") Dockets 13-078-U, 07-026-U, 05-006-U and 02-024-U

CenterPoint Energy Arkansas and predecessors ("CenterPoint") General Rate Case Dockets 06-161-U, 04-121-U and 01-243-U and Docket 10-108-U.

The Empire District Electric Company ("EDE"), General Rate Case Dockets 13-111-U, 10-052-U and 04-100-U and Docket 15-010-U.

Entergy Arkansas, Inc. ("EAI") General Rate Case Dockets 13-028-U, 09-084-U, and 06-101-U and other Dockets 15-014-U, 14-118-U, 12-069-U, 12-056-U, 12-038-U, 11-069-U, 10-011-U, 08-149-U, 07-129-U, 06-152-U, 01-041-U and 01-184-U.

Oklahoma Gas and Electric ("OG&E") General Rate Case Dockets 10-067-U, 08-103-U and 06-070-U

Source Gas Arkansas (SGA) and Arkansas Western Gas Company ("AWG") Dockets 13-079-U, 06-124-U, 04-176-U, 02-179-U, and 02-227-U

Southwestern Electric Power Company ("SWEPCO"); General Rate Case Dockets No. 09-008-U and 98-339-U and Dockets 15-021-U and 11-050-U.

Conservation-related dockets (08-137-U, 07-077-TF, 07-078-TF, 07-081-TF and 07-085-TF, 05-111-P),

Restructuring Investigation Docket No. 00-190-U (both September, 2000 and September, 2001 phases)

Approximately 20 rate unbundling cases for co-ops and investor-owned utilities, most of which were settled.

Comparison of OG&E Request and Attorney General's Recommendation

	OG&E	Attorney General recommended	AG alternative no CWIP only
Plant in Service	\$ 33,990,824	\$ 33,990,824	\$ 33,990,824
Accumulated Depreciation	\$ (661,831)	\$ (946,211)	\$ (661,831)
Net plant in service	\$ 33,328,993	\$ 33,044,614	\$ 33,328,993
CWIP	\$ 8,861,496		
Total Rate Base	\$ 42,190,489	\$ 33,044,614	\$ 33,328,993
Return on net plant	\$ 2,732,977	\$ 2,709,658	\$ 2,732,977
Return on CWIP	\$ 726,643	\$ -	\$ -
Total return	\$ 3,459,620	\$ 2,709,658	\$ 2,732,977
Expenses			
O&M			
Depreciation	\$ 568,759	\$ 568,759	\$ 568,759
Property Tax	\$ 428,523	\$ 339,908	\$ 339,908
Total Expenses	\$ 997,282	\$ 908,667	\$ 908,667
Rev. Req. @ 100%	\$ 4,456,902	\$ 3,618,326	\$ 3,641,645
AR jurisdiction	\$ 0	\$ 0	\$ 0
AR Revenue Requirement	\$ 489,934	\$ 397,752	\$ 400,315
<u>Initial Rate (\$/kWh)</u>			
Residential	0.0002193	0.0001780	0.0001792
General Service	0.0002156	0.0001750	0.0001762
Power and Light	0.0001624	0.0001318	0.0001327

CERTIFICATE OF SERVICE

I, Shawn McMurray, do hereby certify that on the 10th day of August, 2015, I provided a copy of the above and foregoing Testimony and Exhibits 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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