

BEFORE THE CORPORATION COMMISSION OF OKLAHOMA

IN THE MATTER OF THE APPLICATION OF)
OKLAHOMA GAS AND ELECTRIC COMPANY)
FOR COMMISSION AUTHORIZATION OF A)
PLAN TO COMPLY WITH THE FEDERAL CLEAN) CAUSE NO. PUD 201400229
AIR ACT AND COST RECOVERY; AND FOR)
APPROVAL OF THE MUSTANG MODERNIZATION) **ORDER NO. 632367**
AND COST RECOVERY)

Handwritten initials: A, G, J, P, L

HEARING: September 4; September 18; September 25; and October 2, 2014 in
Courtroom B
2101 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105
Before Ben Jackson, Administrative Law Judge

APPEARANCES: Kimber L. Shoop, Patrick Shore, Stephanie Houle, and William J. Bullard,
Attorneys representing Oklahoma Gas and Electric Company;
Jim A. Roth, Cheryl Vaught, and Scot Conner, *Attorneys representing*
Oklahoma Energy Results, LLC;
Elizabeth Cates, Deputy General Counsel, and Natasha M. Scott,
Senior Attorney representing Public Utility Division, Oklahoma
Corporation Commission;
Jerry J. Sanger, Tessa L. Hager, and Erick Harris, *Assistant Attorneys*
General, representing Office of the Oklahoma Attorney General;
Thomas P. Schroedter, D. Kenyon Williams, Jr., and Jennifer H. Castillo,
Attorneys representing Oklahoma Industrial Energy Consumers;
Lee Paden, *Attorney representing Quality of Service Coalition;*
Rick D. Chamberlain, *Attorney representing Wal-Mart Stores East, LP*
and Sam's East, Inc.;
Ronald E. Stakem and Jack G. Clark, Jr. *Attorneys representing OG&E*
Shareholders Association;
William L. Humes, *Attorney representing The Wind Coalition,*
Oklahoma Hospital Association, and Oklahoma Cogeneration LLC;
Jacquelyn Dill, Kristen A. Henry, and Susan Laureign *Attorneys*
representing Sierra Club;
Kendall Parrish, *Attorney representing AES Shady Point, LLC;*
Deborah Thompson, *Attorney representing AARP*

ORDER GRANTING MOTION TO ESTABLISH PROCEDURAL SCHEDULE

This Cause comes before the Oklahoma Corporation Commission ("Commission") on the Motion to Establish Procedural Schedule ("Motion") filed by Oklahoma Gas and Electric Company ("OG&E" or "Company") on August 28, 2014. The Motion was initially set for hearing on September 4, 2014, and heard on that date. Continuances were granted at the request

of the Public Utility Division, resulting in the Motion also being heard on September 18, September 25, and October 2, 2014.

I. PROCEDURAL SCHEDULE

<u>DATE</u>	<u>ACTION</u>
Friday, October 31, 2014	Deadline for filing Motions to Intervene
Tuesday, November 25, 2014	Discovery Cut-Off for Direct Testimony
Tuesday, December 16, 2014	Responsive Testimony Filed
Monday, December 22, 2014	Statements of Position Filed from all parties not filing Responsive Testimony
Thursday, January 15, 2015	Discovery Cut-Off for All Responsive Testimony
Monday, January 26, 2015	Rebuttal Testimony Filed by All Parties
Friday, January 30, 2015	Settlement Conference 10:00 a.m., Courtroom 301
Friday, February 6, 2015	Discovery Cut-off for all Rebuttal Testimony
Friday, February 13, 2015	All Pre-Trial Motions to be Filed
Friday, February 13, 2015	Objections to Witness Qualifications Filed
Tuesday, February 17, 2015	Settlement Conference, 10:00 a.m., Courtroom 301
Friday, February 20, 2015	Exhibit Lists Filed and Exchanged; Testimony Summaries Filed
Tuesday, February 24, 2015	Pre-Hearing Conference; all pre-trial motions heard, 10:00 a.m.
Tuesday, March 3, 2015	Hearing on the Merits, 10:00 a.m., Courtroom 301
Due 14 business days following the close of the Hearing on the Merits	Proposed Findings of Fact and Conclusions of Law Filed

GENERAL PROVISIONS

I. ORDER AND PRESENTATION OF TESTIMONY

The hearing on the merits shall be heard before the Administrative Law Judge ("ALJ"). The hearing shall commence on **March 3, 2015 at 10:00 a.m.**, and continue each day thereafter, until the record is closed, unless otherwise directed by the ALJ. The hearing will be heard in Courtroom 301 of the Jim Thorpe Office Building, unless the ALJ 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 and rebuttal testimony. OG&E shall then be permitted to offer oral surrebuttal testimony in response to the rebuttal testimony filed by the other parties.
2. After the summaries, prefiled testimony and oral surrebuttal 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 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 prefiled responsive testimony, rebuttal testimony, or statements of position through direct examination by counsel which shall be done in lieu of oral responsive and/or rebuttal testimony. Each Intervenor shall then be permitted to offer oral surrebuttal testimony in response to the rebuttal testimony filed by the other parties. Each Intervenor shall be permitted to offer oral rebuttal testimony in response to any new matters or new evidence raised in oral testimony offered by the other parties.
2. After the summaries, prefiled responsive testimony or statements of position and oral rebuttal and surrebuttal 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 a summary of their responsive and rebuttal testimony, or statements of position and any oral rebuttal and surrebuttal testimony, the Attorney General shall have his witness(es) read into the record a concise, written summary of their prefiled responsive testimony, rebuttal testimony, or statements of position, which shall be done in lieu of oral responsive and/or rebuttal testimony. The Attorney General shall then be permitted to offer oral surrebuttal testimony in response to the rebuttal testimony filed by the other parties. The Attorney General shall be permitted to offer oral rebuttal testimony in response to any new matters or new evidence raised in the oral testimony offered by the other parties.
2. After the summaries, prefiled responsive testimony, rebuttal testimony, or statements of position and oral rebuttal and surrebuttal 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 a summary of their responsive and rebuttal testimony or statements of position and any oral rebuttal and surrebuttal testimony, Staff shall have its witness(es) read into the record a concise, written summary of their prefiled responsive testimony and/or rebuttal testimony, which shall be done in lieu of oral responsive and/or rebuttal testimony. Staff shall then be permitted to offer oral surrebuttal testimony in response to the rebuttal testimony filed by the other parties. Staff shall be permitted to offer oral rebuttal testimony in response to any new matters or new evidence raised in the oral testimony offered by the other parties.
2. After the summaries, prefiled responsive and oral rebuttal or surrebuttal 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. SURREBUTTAL

1. Due to OG&E having the burden of proof, after other parties have presented their testimony summaries, statements of positions, and oral rebuttal and sur-rebuttal testimony, OG&E may be allowed to present oral sur-surrebuttal testimony provided OG&E can show that other parties have raised new matters or new evidence which

OG&E was unable to adequately address through cross-examination. The oral sur-surrebuttal shall be strictly limited to the new matters or new evidence.

2. Once OG&E has presented their 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; likewise, the redirect examination will be limited to issues, which 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 surrebuttal type testimony, the ALJ shall evaluate the request and make a determination based on the following criteria:
 - a. Whether or not any new issue(s) has been raised.
 - 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 **ten (10) calendar days** from receipt. If such discovery requests on OG&E's direct testimony are received on a Thursday or Friday, responses to those discovery requests shall be due **ten (10) 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 ALJ 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 ALJ Report and shall be transmitted to all parties and the ALJ 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 December 22, 2014.
3. Each party presenting or cross examining any witness, on or before February 20, 2015, 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 or during cross-examination of any witness.
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 ALJ. 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 ALJ. 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 152 and 286.

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.

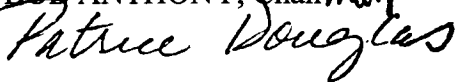
THE COMMISSION FURTHER ORDERS that the procedural schedule and general provisions as set forth herein shall be adhered to by and between the parties to this Cause and the same shall become the order of the Commission.

THIS ORDER SHALL BE EFFECTIVE IMMEDIATELY.

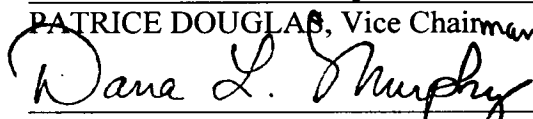
CORPORATION COMMISSION OF OKLAHOMA



BOB ANTHONY, Chairman



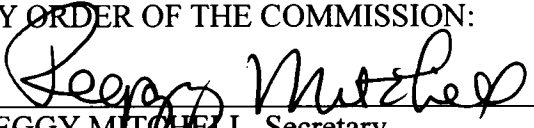
PATRICE DOUGLAS, Vice Chairman



DANA L. MURPHY, Commissioner

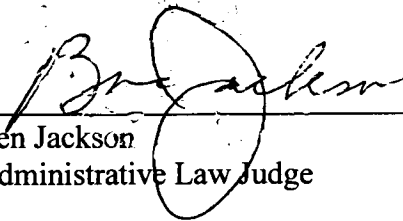
DONE AND PERFORMED by the Commissioners participating in the making of this order as shown by their signatures above this 30 day of October, 2014.

BY ORDER OF THE COMMISSION:



PEGGY MITCHELL, Secretary

REPORT OF THE ADMINISTRATIVE LAW JUDGE



Ben Jackson
Administrative Law Judge

10/23/2014
Date