

BEFORE THE CORPORATION COMMISSION OF OKLAHOMA

IN THE MATTER OF THE APPLICATION OF )  
 OKLAHOMA GAS AND ELECTRIC COMPANY ) CAUSE NO. PUD 201500273  
 FOR AN ORDER OF THE COMMISSION )  
 AUTHORIZING APPLICANT TO MODIFY ITS )  
 RATES, CHARGES, AND TARIFFS FOR RETAIL ) ORDER NO. **650145**  
 ELECTRIC SERVICE IN OKLAHOMA )

HEARING: January 28, 2016, in Courtroom B  
 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105  
*Before Ben Jackson, Administrative Law Judge*

APPEARANCES: Kimber L. Shoop, Patrick D. Shore and William J. Bullard, Attorneys  
*representing* Oklahoma Gas and Electric Company  
 Judith L. Johnson and Natasha M. Scott, Attorneys *representing* Public  
 Utility Division, Oklahoma Corporation Commission  
 Dara M. Derryberry and Eric Davis, Attorneys *representing* Office of the  
 Oklahoma Attorney General  
 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  
 Rick D. Chamberlain, Attorney *representing* Wal-Mart Stores East, LP,  
 and Sam's East, Inc.  
 Melodie Garneau and Douglas Holsted, President and Co-Chair,  
*representing* VOICE, Voices Organized in Civic Engagement  
 Cheryl A. Vaught, Scot A. Conner and Jon Laash, Attorneys *representing*  
 Oklahoma Energy Results, LLC  
 Jim A. Roth, Marc Edwards and Dominic D. Williams, Attorneys  
*representing* Alliance for Solar Choice and Oklahoma Hospital  
 Association

**ORDER GRANTING MOTION TO ESTABLISH PROCEDURAL SCHEDULE**

BY THE COMMISSION:

The Corporation Commission of the State of Oklahoma ("the Commission") being  
 regularly in session and the undersigned Commissioners being present and participating, there  
 comes on for consideration and action the Motion to Establish Procedural Schedule filed in this  
 Cause by Oklahoma Gas and Electric Company ("OG&E") on January 12, 2016, and set for  
 hearing on January 21, 2016, and continued until January 28, 2016.

WMS  
 [Signature]

## I. PROCEDURAL SCHEDULE

Following discussion by the Parties, counsel for OG&E advised the Commission of the following procedural schedule:

<u>Date</u>	<u>Action</u>
February 23, 2016	Major Issues List due from Staff, AG & Intervenors
March 18, 2016	Exit Conference
March 25, 2016	Discovery Cut-off for Direct Testimony
March 17, 2016	Deadline for filing Motions to Intervene
March 21, 2016	Deadline for filing Responsive Testimony on Revenue Requirement
March 31, 2016	Deadline for filing Responsive Testimony on Rate Design and Cost of Service
April 6, 2016	Statements of Position due from all parties not filing Responsive Testimony
April 11, 2016	Discovery Cut-off for All Responsive Testimony
April 11, 2016	Rebuttal Testimony filed
April 14, 2016	Settlement Conference
April 22, 2016	Objections to Witness Qualifications filed
April 22, 2016	Pre-Trial Motions, Briefs filed
April 22, 2016	Testimony Summaries Filed
April 25, 2016	Discovery Cut-off for all Rebuttal Testimony
April 25, 2016	Exhibit lists filed and exhibits exchanged
April 26, 2016	Pre-hearing conference; all pre-trial motions heard, Courtroom 301
May 3, 2016	Hearing on the Merits, Courtroom 301 (10:00 a.m.)
As directed by the ALJ at the conclusion of the Hearing	Proposed Findings of Fact and Conclusions of Law filed
June 15, 2016	End of 180 day period prescribed by 17 O.S. §152(B)(3) & (4)

## 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 **May 3, 2016, at 10:00 a.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 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 testimony. OG&E shall then be permitted to offer oral surrebuttal testimony in response to any new evidence or new issues raised in the rebuttal testimony filed by the other parties.
2. After the summaries, prefiled direct, prefiled rebuttal and any 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.
4. OG&E shall present its case on an issue-by-issue basis (revenue requirement, depreciation, return on equity and cost of service/rate design). Once OG&E has completed its presentation of an issue, the following order of presenting testimony regarding that issue will proceed.

**B. INTERVENORS**

1. After OG&E has presented its testimony summaries, pre-filed direct, prefiled rebuttal, 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 rebuttal testimony, which shall be done in lieu of oral testimony. Each Intervenor shall then be permitted to offer oral surrebuttal testimony in response to any new evidence or new issues raised in the rebuttal testimony filed by the other parties.
2. After the summaries, prefiled responsive testimony, prefiled rebuttal, and any oral surrebuttal testimony 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 testimony summaries, prefiled responsive, prefiled rebuttal and any oral surrebuttal testimony, the Attorney General shall have his witness(es) read into the record a concise, written summary of their prefiled responsive and rebuttal testimony, which shall be done in lieu of oral testimony. The Attorney General shall then be permitted to offer oral surrebuttal testimony in response to any new evidence or new issues raised in the rebuttal testimony filed by the other parties.

2. After the summaries, prefiled responsive, prefiled rebuttal and any oral surrebuttal testimony 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 rebuttal testimony and any oral surrebuttal testimony, Staff shall have its witness(es) read into the record a concise, written summary of their prefiled responsive and rebuttal testimony, which shall be done in lieu of oral testimony. Staff shall then be permitted to offer oral surrebuttal testimony in response to any new evidence or new issues raised in the rebuttal testimony filed by the other parties.
2. After the summaries, prefiled responsive and rebuttal testimony and any oral 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. SUR-SURREBUTTAL TESTIMONY**

1. Due to OG&E having the burden of proof, after other parties have presented their summaries, statements of positions, prefiled testimony and any oral sur-rebuttal testimony, OG&E may then be permitted to offer oral sur-surrebuttal testimony, provided however that OG&E can show that other parties have raised new evidence or new issues which OG&E was unable to adequately address through cross-examination. The oral sur-surrebuttal shall be strictly limited to such new evidence or new issues in the oral sur-rebuttal testimony offered by the other parties.
2. Once OG&E has presented any oral and sur-surrebuttal testimony, the witness(es) shall be tendered for cross and redirect examination.
3. Any redirect examination will be limited to issues that were raised during cross-examination.
4. After any 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 ALJ shall evaluate the request and make a determination based on the following criteria:
  - a. Whether or not any new evidence or new issue has been raised during OG&E's sur-surrebuttal.

- b. Whether or not the party was able to adequately respond to the new issue or new evidence 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) 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 to all parties of record and OGE Regulatory Information (reginfo@oge.com).

**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 April 6, 2016.
3. Each party presenting or cross examining any witness, on or before April 25, 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 exhibit 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 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. The parties agree that the Hearing on the Merits shall provide for the presentation of issues on an "issue-by-issue" basis as set forth herein.
2. 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. § 152.

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 THEREFORE 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.

OKLAHOMA CORPORATION COMMISSION

*Bob Anthony*

BOB ANTHONY, Chairman

*Dana L. Murphy*

DANA L. MURPHY, Vice Chairman

*J. Todd Hiatt*

J. TODD HIETT, Commissioner

**CERTIFICATION**

DONE AND PERFORMED by the Commissioners participating in the making of this order, as shown by their signatures above this 23 day of January, 2016.

[seal]

*Peggy Mitchell*

PEGGY MITCHELL, Secretary

**REPORT OF THE ADMINISTRATIVE LAW JUDGE**

The foregoing findings, conclusions and order are the report and recommendation of the undersigned Administrative Law Judge.

*B. Jackson*  
BEN JACKSON  
Administrative Law Judge

2/10/16  
Date