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KPOW.92585

May 18, 2016

**VIA EMAIL & OVERNIGHT DELIVERY:**

Herbert Hilliard, Chairman  
c/o Sharla Dillon, Dockets & Records Manager  
Tennessee Regulatory Authority  
502 Deaderick Street, 4th Floor  
Nashville, TN 37243

Re: Petition of Kingsport Power Company d/b/a AEP Appalachian Power General Rate Case  
TRA Docket No.: 16-00001

Dear Chairman Hilliard:

We transmit herewith Kingsport Power Company's Response to Joint Motion of Solar Intervenors to Sever and Dismiss Kingsport's Proposed Net Metering Tariff for filing in the captioned docket. The original and four (4) copies are being sent via FedEx for overnight delivery.

Please contact the writer with any questions.

Very sincerely yours,

**HUNTER, SMITH & DAVIS, LLP**



William C. Bovender

Sharla Dillon, Docket Manager  
Page 2  
May 18, 2016

Enclosures

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**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

**IN RE:**

**PETITION OF KINGSFORT POWER )  
COMPANY d/b/a AEP APPALACHIAN )  
POWER, GENERAL RATE CASE )**

**DOCKET NO. 16-00001**

**RESPONSE TO JOINT MOTION OF SOLAR INTERVENORS TO SEVER AND  
DISMISS KINGSFORT'S PROPOSED NET METERING TARIFF**

On May 6, 2016, The Alliance for Solar Choice, The Energy Freedom Coalition of America and the Tennessee Solar Energy Association (collectively, the “Solar Intervenors”) filed a motion, based upon their interpretation of T.C.A. § 65-4-105(d), urging the Tennessee Regulatory Authority (the “TRA”) to sever, declare illegal and dismiss a proposal of Kingsport Power Company (“Kingsport” or the “Company”) to require its residential and small commercial service customers that participate in net metering to take demand-metered electric service from the Company pursuant to its proposed Tariff RS-D and Tariff SGS-D (the “NMS Proposal”). The Motion alleges that the NMS Proposal is illegal because it discriminates against consumers who use wind or solar power, in contravention of T.C.A. § 65-4-105(d). Such a determination requires an evidentiary hearing. It would be unlawful and unfair, both to Kingsport and all other interested parties, to make such a determination on an incomplete record, as that which is before the Hearing Officer. The most appropriate forum to continue to develop such a record is in this docket in which the TRA Panel will consider and decide the Company’s base rate case, which includes not just the NMS Proposal, but interrelated issues that are integral to its evaluation. Accordingly, the TRA should deny the Motion and allow for the continued adjudication of the NMS Proposal in this docket.

## 1. **Background**

In 2011, the Company proposed and the TRA approved the Company's current net metering tariff ("Tariff NMS"), which the Company developed at the urging of the TRA as an alternative to individual special contracts with customers who wished to pursue net metering with the Company.<sup>1</sup> It is unclear if the TRA considered Section 65-4-105(d) during its evaluation of Tariff NMS.

On January 4, 2016, Kingsport initiated a general rate case before the TRA that included a new tariff ("Proposed Tariff NMS2")<sup>2</sup> for residential and small commercial service customers who choose to install their own generation facilities and "net meter" the energy produced by those facilities against that which the customers purchase from the Company ("NMS Customers"). Tariff NMS will be closed to new customers, and Proposed Tariff NMS2, which will be effective in January 2017, will be open to all other customers who wish to install all forms of alternative generation – not just that powered by solar and wind.

As Company witness Castle explains in his direct pre-filed testimony,<sup>3</sup> NMS Customers rely on the Company's infrastructure to deliver power when, for example, the sun is not shining and their solar generating facilities cannot meet their demand for electricity. The NMS Customers also rely on the Company's infrastructure to export the power to the grid when those facilities generate more than the NMS Customers are consuming. Under Tariff NMS, the Company recovers fixed costs related to its infrastructure used by NMS Customers through the kWh charge in the Company's current RS and SGS tariffs. Proposed Tariffs RS-D and SGS-D

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<sup>1</sup> Note that in 2006, the TRA declined to adopt the federal net metering standards set out in the Public Utility Regulatory Policies Act, as amended by the Energy Policy Act of 2006. Docket No. 06-00010, Initial Order and Docket No. 11-00111, Order Approving Net Metering Tariff.

<sup>2</sup> A copy of Proposed Tariff NMS2 is attached as Exhibit 1.

<sup>3</sup> Pertinent portions of Mr. Castle's testimony are attached as Exhibit 2.

do not impose new or different costs on NMS Customers. Rather, Proposed Tariff RS-D and SGS-D are simply other mechanisms to recover the same types of costs from NMS Customers as it recovers from its non-net metering customers.

The NMS Customers currently can significantly reduce or eliminate their monthly kWh charges by netting the energy they purchase from the Company against the energy they generate. But, as, the fixed costs related to the Company's infrastructure are now recovered through kWh charges, the responsibility for paying those costs is improperly and unjustly shifted to customers that do not or cannot install their own generation resource and participate in net metering.<sup>4</sup> This subsidization is widely acknowledged by the industry in general; has been observed by the Company and its affiliates throughout the AEP system; and has been an issue considered and resolved in general rate proceedings across the country.

Far from a "distraction," as the Solar Intervenors allege,<sup>5</sup> the NMS Proposal seeks to correct this inequity by recovering fixed costs, for which new NMS Customers are responsible, from those customers pursuant to tariffs with demand charges (*i.e.* Tariffs RS-D and SGS-D).<sup>6</sup> By metering demand the Company will be able to measure how much NMS Customers use the Company's infrastructure and assign or allocate the appropriate portion of fixed costs associated with that usage to the NMS Customers themselves, and not to customers who have not chosen or who are unable to net meter.<sup>7</sup>

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<sup>4</sup> Castle Direct at 6.

<sup>5</sup> Motion, p. 5.

<sup>6</sup> Note that the proposed Tariff RS-D is an option, as applicable, for all of the Company's residential customers.

<sup>7</sup> Castle Direct at 6.

The Solar Intervenors allege that the TRA should “sever” the NMS Proposal from the above-captioned docket and dismiss it, as arguing that the NMS Proposal is “illegal on its face” and that it “violates” Section 65-4-105(d) of the Tennessee Code.<sup>8</sup> Section 65-4-105(d) states that:

When any public utility regulated by the authority supplies its services to consumers who use solar or wind-powered equipment as a source of energy, such *public utility shall not discriminate against such consumers* by its rates, fees or charges or by altering the availability or quality of energy.

The Solar Intervenors assert the statutory text is “unambiguous and requires no interpretation.”<sup>9</sup> But the alleged unambiguity of the text does not mean that a factual examination is not required. At this point, such an examination and determination would be based only on an incomplete record: the Proposed Tariff NMS2, the testimony of Mr. Castle, and the unsupported allegations in the Motion. Moreover, granting the Motion would halt and reverse a procedural schedule that has already advanced for several months. Accordingly, the Hearing Officer should not grant the Motion and should allow the Company and all interested parties, not just those represented by the Solar Intervenors, to develop a robust factual record in this proceeding regarding the NMS Proposal.

## **2. Granting the Motion would not advance judicial economy**

Since the schedule for the TRA’s consideration of the Company’s general case was established on February 24, 2016, the Company, the Solar Intervenors and other parties have passed a number of procedural milestones, including discovery and receiving comments from the

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<sup>8</sup> Motion, p. 1.

<sup>9</sup> Note that the Solar Intervenors represent that Section 65-4-105(d) “prohibits electric companies from imposing ‘rates, fees, or charges’ on customers solely because they ‘use solar or wind-powered equipment as a source of energy.’” Motion, p. 1. This is a broader reading of the Section than is supported by its plain text.

public. Many of these milestones have related to the NMS Proposal. The Solar Intervenors served, and Kingsport responded to, forty-eight discovery requests. The vast majority of the members of the public who made statements at the public hearing in Kingsport, Tennessee on March 30 and 31, 2016 were interested solely in the NMS Proposal. Lastly, the most cursory search of this docket reveals multiple public comments that have been filed concerning the NMS Proposal. To grant the Motion and move the consideration of the NMS Proposal into a separate docket would render all such work and all such comments meaningless.

Moreover, the NMS Proposal does not stand alone. It involves the rates paid by certain of Kingsport's customers, and an evaluation of the justness and reasonableness of those rates requires a holistic review that must be made in the context of the Company's entire proposal. Allowing special interest groups to carve out a portion of net metering related issues from this general rate case would be both chaotic and counterproductive and would prevent the TRA from a comprehensive evaluation of the relevant issues, including the NMS Proposal.

Notably, the Solar Intervenors initially appeared to share this opinion, when they urged the TRA to allow them to participate as full participants with the right to comment on all issues, not just those related to net metering, which includes the NMS Proposal. It is unclear why the Solar Intervenors have changed their minds,<sup>10</sup> but it is clear that the most appropriate and efficient means of evaluating the NMS Proposal is as part of this docket, where it can be considered as part of the Company's overall rate proposals.

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<sup>10</sup> One of the Solar Intervenors, The Alliance for Solar Choice, has recently argued before other regulatory bodies that net metering should be considered as part of a general rate case and not as a stand-alone, single issue. *See, e.g. In the Matter of the Application of Oklahoma Gas and Electric Company for an Order Granting Approval of New Distributed Generation Tariffs Pursuant to Title 17, Section 156 of the Oklahoma Statutes*, Case No. PUD-201500274, Responsive Testimony of Mark E. Garrett on behalf of The Alliance for Solar Choice (Nov. 3, 2015) (p. 14, in 28 to p. 16, in 22; p. 35, in 19 to p. 36, in 1; p. 37, in 11-14), attached as Exhibit 3.

3. **A claim of discriminatory rate treatment is, by necessity and law, a fact based inquiry**

Pursuant to Tennessee law, regulation and practice, motions such as this, in general, should only be granted if the non-moving party can prove no set of facts that would entitle the movant to relief.<sup>11</sup> Moreover, it is well-established that the evaluation of allegations of discriminatory rates is a fact-based inquiry. Yet granting the Motion would deny the Company, and all other interested parties, the opportunity to present facts in response to the Motion's allegation of discrimination. The Motion therefore must be denied and issues related to the NMS Proposal, which are intertwined with other net metering issues in this rate case, should proceed in this docket.

A. **Granting the Motion would be improper pursuant to Tennessee rules and regulations.**

The Motion merely relies on T.C.A. § 65-4-105(d), which does not define “discriminate,” and fails to identify what criteria the Hearing Officer should use to evaluate whether the Motion should be granted. Neither the Rules and Regulations of the TRA (the “TRA Rules”) nor the Administrative Procedures Act provide direction as to how the Hearing Officer should evaluate this Motion. TRA Rule 1220-1-2-.06 recognizes “Preliminary Motions,” but the plain text of the Rule does not support a motion that would dismiss as “illegal” an issue before the TRA, while there is testimony filed and with complex issues pending that require a comprehensive review and weighing of the evidence.

Granting the Motion would also be improper under the Tennessee Rules of Civil Procedure. It is analogous to a motion to dismiss for failure to state a claim upon which relief

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<sup>11</sup> *Webb v. Nashville Area Habitat for Humanity, Inc.*, 346 S.W.3d 422, 426 (Tenn. 2011).



can be granted brought pursuant to T.R.C.P. 12.02(6).<sup>12</sup> The Hearing Officer should “construe the complaint liberally in favor of” the Company, and must give the Company “the benefit of all the inferences that can be reasonably drawn from the pleaded facts...”<sup>13</sup> Applying the above guidance, the TRA cannot “dismiss” the NMS Proposal unless, under all sets of facts and circumstances, it would be considered discriminatory and thus is in violation of Section 65-4-105.<sup>14</sup> This requires a factual inquiry beyond the application of the motion to dismiss standard.

B. The evaluation of discrimination is a fact-based inquiry under rate-making law.

Under well-established rate-making law, a claim of discrimination is not evaluated in a vacuum. Rather, it “is largely a factual inquiry”<sup>15</sup> that evaluates if similarly situated customers are treated differently, and if there is justification for such disparate treatment. As the Hearing Officer has an incomplete record before her to guide her inquiry, the Hearing Officer should deny the Motion to allow the parties to continue to develop a robust record on the NMS Proposal.

There is no evidence that the NMS Proposal treats the NMS Customers who install solar or wind-powered generation equipment differently from NMS Customers who elect to use other alternative forms of generation: all NMS Customers are required to take service under Proposed Tariffs RS-D and SGS-D. The NMS Proposal would apply equally to a customer who installs a

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<sup>12</sup> Although the TRA Rules and Regulations do recognize the applicability of the Tennessee Rules of Civil Procedure for discovery and subpoenas, T.R.C.P. 12.06(2) is not mentioned. See, e.g. Rules 12020-1-2-.11 and 1220-1-2-.13.

<sup>13</sup> *Webb v. Nashville Area Habitat for Humanity, Inc.*, 346 S.W.3d 422, 426 (Tenn. 2011).

<sup>14</sup> If the NMS Proposal is found to be discriminatory under all sets of facts and circumstances, the TRA must consider if the current Tariff NMS is also illegal under Section 65-4-105.

<sup>15</sup> *Mansfield Municipal Electric Dept. and North Attleborough Electric Dept. v. New England Power Co.*, 94 FERC P 63,023 (2001).

back-up diesel generator seeking service under Proposed Tariff NMS2 as it would to one that installs a solar panel on his home.

Even if the TRA were to conclude that the NMS Proposal creates two distinct classes of customers, the Solar Intervenors must show that the different treatment is not justified, for different treatment is not automatically or necessarily discriminatory treatment. The Tennessee courts have found that it is not unlawfully discriminatory for the TRA to “establish separate classifications of customers for the purposes of assessing different rates.”<sup>16</sup> For example, Tariff P.S. (Public Schools) contains two different pricing regimes: one for schools that use electricity to heat their buildings and one for schools that do not.

Similarly, federal courts considering claims of discriminatory rate treatment have concluded that it is not discriminatory to create two sets of customers: those that are wholly dependent on a utility’s system for service, like the Company’s non-net metering customers, and those that are not wholly dependent on the utility and that have other available sources of supply, like the NMS Customers. In this situation, “[t]here is clearly a difference” between the two classes of customers and “to distinguish in treatment between the two classes cannot of itself alone result in an undue preference or advantage or in an unreasonable difference in service.”<sup>17</sup>

The Solar Intervenors make no attempt in the Motion to support their argument that the Hearing Officer should decide that the NMS Customers and non-net metering customers are unjustifiably treated differently. The TRA has not heard the complete testimony of Company witnesses justifying the use of proposed Tariffs RS-D and SGS-D as cost recovery mechanisms

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<sup>16</sup> *Consumer Advocate Div. v. Tenn. Regulatory Authority*, 2002 WL 1579700 (July 18, 2002) at \*6 (interpreting Section 65-4-122, which prohibits the unjust discrimination of similarly situated customers by a public service company).

<sup>17</sup> *Michigan Consol. Gas Co. v. Federal Power Comm’n*, 203 F.2d 895, 901 (1953).

to eliminate the subsidization of the NMS Customers because of their choice, and financial ability, to participate in net metering. Nor has the TRA heard the testimony of other interested parties on the NMS Proposal, such as the Company's non-net metering customers or customers that are interested in net metering using non-solar generating facilities.

Thus, granting the Motion would unfairly deprive the Company of its right to help develop a robust record of facts that justify the NMS Proposal vis-à-vis its other proposals in this docket where Kingsport's general rate case is being considered. But granting the Motion would also unfairly deprive other interested parties from participating in the debate and the development of that record. The Solar Intervenors do not, nor could they possibly, assert that they represent the viewpoint of every customer interested in, or affected by, the NMS Proposal.

#### **4. Conclusion**

It is beyond the scope of a Motion to Dismiss for the Hearing Officer, and unfair to Kingsport and other interested parties, to decide an allegation of a discriminatory rate based on an incomplete record. Accordingly, the Hearing Officer should deny the Motion and allow the development, by the Company and all interested parties, of a robust record regarding the NMS Proposal in this docket.

Respectfully submitted,

**KINGSPORT POWER COMPANY d/b/a AEP  
APPALACHIAN POWER**

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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing **RESPONSE TO JOINT MOTION OF SOLAR INTERVENORS TO SEVER AND DISMISS KINGSPORT'S PROPOSED NET METERING TARIFF**, has been served upon the following by emailing a true and accurate copy on this the 18<sup>th</sup> day of May, 2016:

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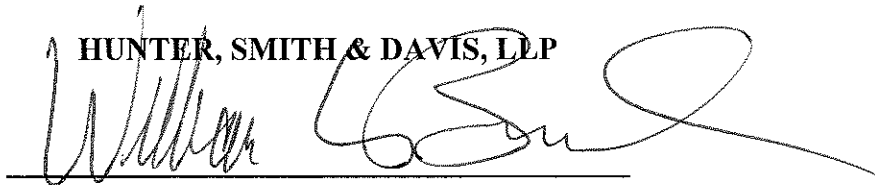
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**HUNTER, SMITH & DAVIS, LLP**

  
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William C. Bovender

KINGSPORT POWER COMPANY  
d/b/a AEP Appalachian Power  
Kingsport, Tennessee

Original Sheet Number 17-7  
T.R.A. Tariff Number 2

TARIFF N.M.S.-2  
(Net Metering Service Rider 2)

CONDITIONS OF SERVICE

A. Notification

1. For a renewable fuel generator with an alternating current capacity of 25 KW or less, the customer shall submit the required Company Interconnection Notification Form to the Company at least thirty (30) days prior to the date the customer intends to interconnect the renewable fuel generator to the Company's facilities. For a renewable fuel generator with an alternating current capacity greater than 25 KW, the customer shall submit the required Interconnection Notification Form to the Company at least sixty (60) days prior to the date the customer intends to interconnect the renewable fuel generator to the Company's facilities. The submission may either be directly to the Company or by registered mail with return receipt. All sections, including appropriate signatures, of the Interconnection Notification Form must be completed for the notification to be valid. The customer shall have all equipment necessary to complete the interconnection prior to such notification. For renewable fuel generators with capacities greater than 25 KW, the customer should contact the Company prior to making financial commitments. If mailed, the date of notification shall be the third day following the mailing of the Interconnection Form. The Company shall provide a copy of the Interconnection Notification Form to the customer upon request.
2. The Company shall, within thirty (30) days of the date of notification for RF Generators with a rated capacity of 25 KW or less, and within sixty (60) days of the date of notification for RF Generators with a rated capacity greater than 25 KW, either return to the customer a copy of the valid Interconnection Notification Form or return any incomplete form. If the Company determines that the Interconnection Notification Form is incomplete or that any of the other requirements for interconnection are not satisfied, the customer shall submit another completed Interconnection Notification Form and notify the Company once the customer has completed all work necessary to satisfy the deficiencies prior to interconnection. This notification requirement shall not replace or supersede any other applicable waiting period or required interconnection authorization when other applicable law, rule, regulation or code would permit authorization to be withheld or delayed.
3. The Net Metering Customer shall immediately notify the electric distribution company of any changes in the ownership of, operational responsibility for, or contact information for the generator. The Net Metering Customer shall not assign this tariff or any part hereof without the prior written consent of the Company, and such authorized assignment may result in the termination of availability of tariff to Customer.

B. Conditions of Interconnection

1. RF Generator equipment shall be installed in accordance with the manufacturer's specifications as well as all applicable provisions of the National Electrical Code. Renewable fuel generator equipment and installations shall comply with all applicable safety and performance standards of the National Electrical Code, the Institute of Electrical and Electronic Engineers and accredited testing laboratories in accordance with IEEE Standard 1547, Standard for Interconnecting Distributed Resources with Electric Power Systems, July 2003, and safety and performance standards established by local and national electrical codes including the Institute of Electrical and Electronics Engineers, the National Electrical Safety Code, and Underwriters Laboratories. Customer's renewable fuel generator equipment and installations shall also comply with the Company's Interconnection Guidelines. The Company shall provide a copy of its Interconnection Guidelines to the customer upon request.
2. The Customer shall obtain any governmental authorizations and permits required for the construction and operation of the RF Generator facility and interconnection facilities.

Issued:  
By: Charles Patton, President

Effective:  
Pursuant to an Order in  
Docket Number

KINGSPORT POWER COMPANY  
d/b/a AEP Appalachian Power  
Kingsport, Tennessee

Original Sheet Number 17-8  
T.R.A. Tariff Number 2

TARIFF N.M.S.-2  
(Net Metering Service Rider 2)

CONDITIONS OF SERVICE (Cont'd)

3. In the case of renewable fuel generators with an alternating current capacity greater than 25 KW, the following requirements shall be met before interconnection may occur:

- a. Electric Distribution Facilities and Customer Impact Limitations. A renewable fuel generator shall not be permitted to interconnect to the Company's distribution facilities if the interconnection would reasonably lead to damage of any of the Company's facilities or would reasonably lead to voltage regulation or power quality problems at other customer revenue meters due to the incremental effect of the Company's electric distribution system, unless the customer reimburses the Company for its cost to modify any facilities needed to accommodate the interconnection.
- c. Secondary, Service and Service Entrance Limitations. The capacity of the RF Generator shall be less than the capacity of the Company-owned secondary, service, and service entrance cable connected to the point of interconnection, unless the customer reimburses the Company for its cost to modify any facilities needed to accommodate the interconnection.
- e. Transformer Loading Limitations. The RF Generator shall not have the ability to overload the Company's transformer, or any transformer winding, beyond manufacturer or nameplate ratings, unless the customer reimburses the Company for its costs to modify any facilities needed to accommodate the interconnection.
- d. Integration With Company Facilities Grounding. The grounding scheme of the renewable fuel generator shall comply with IEEE 1547, Standard for Interconnecting Distributed Resources With Electric Power Systems, July 2003, and shall be consistent with the grounding scheme used by the Company. If requested by a prospective net metering customer, the Company shall assist the customer in selecting a grounding scheme the coordinates with the Company's distribution system.
- e. Balance Limitation. The RF Generator shall not create a voltage imbalance of more than 3.0% at any other customer's revenue meter if the Company's transformer, with the secondary connected to the point of interconnection, is a three-phase transformer, unless the customer reimburses the Company for its cost to modify any facilities needed to accommodate the interconnection.

4. The customer shall provide a copy of its insurance policy to the Company. If the customer's renewable fuel generator does not exceed 10 KW, then such coverage shall be an amount of at least \$100,000 for the liability of the insured against loss arising out of the use of a generation facility. If the customer's renewable fuel generator exceeds 10 KW, then such coverage shall be an amount of at least \$300,000 for the liability of the insured against loss arising out of the use of a generation facility. The customer must submit evidence of such insurance to the Company with the Interconnection Notification Form.

The Company's receipt of evidence of liability insurance does not imply an endorsement of the terms and conditions of the coverage.

Neither party assumes any responsibility of any kind with respect to the construction, maintenance, or operation of the system or other property owned or used by the other party. The Customer agrees that the Company shall not be liable for any claims, costs, losses, suits or judgments for damages to any Person or property in any way resulting from, growing out of, or arising in or in connection with the use of, or contact with, energy delivered after it is delivered to Customer and while it is flowing through the lines of Customer, or is being distributed by Customer, or is being used by retail load.

5. Following Notification by the Customer, the Company shall have the right to inspect and test the RF Generator equipment and installation prior to interconnection. The nature and extent of these tests shall be determined solely by the Company. The Company reserves the right to conduct additional tests and inspections and to install additional equipment or meters at any time following interconnection of the RF Generator. The Customer shall not commence parallel operation of the RF Generator until the facility has been approved by the Company. Notwithstanding the foregoing, the Company's approval to operate the facility in parallel with the Company's system should not be construed as an endorsement, confirmation, warranty, guarantee, or representation concerning the safety, operating characteristics, durability or reliability of the RF Generator.

Issued:  
By: Charles Patton, President

Effective:  
Pursuant to an Order in  
Docket Number

**KINGSPORT POWER COMPANY**  
d/b/a AEP Appalachian Power  
Kingsport, Tennessee

**Original Sheet Number 17-9**  
**T.R.A. Tariff Number 2**

**TARIFF N.M.S.-2**  
**(Net Metering Service Rider 2)**

6. The RF Generator installation must have a visibly open, lockable, and manual disconnect switch which is accessible by the Company at all hours and clearly labeled. A licensed certified technician must certify via the Interconnection Notification Form that the disconnection switch has been installed properly. The Company reserves the right to install any additional equipment, including controls and meters, at the facility.
7. The Customer shall periodically maintain and test the RF Generator in accordance with the manufacturer's specifications and all applicable safety and performance standards. The Customer shall notify the Company at least fourteen (14) days prior to making any material changes to the renewable fuel generator facility or installation, including, but not necessarily limited to, any modification to the equipment or protective equipment settings or disconnection of the RF Generator from the Company's system, excluding temporary disconnects for routine maintenance. Modifications or changes made to the RF Generator shall be evaluated by the Company prior to being made. The Customer shall provide detailed information describing the modifications of changes to the Company in writing prior to making the modification the RF Generator. The Company shall review the proposed changes to the RF Generator and provide the results of its evaluation to the Customer within sixty (60) days of receipt of the Customer's proposal. Any items that would prevent parallel operation due to violation of applicable safety standards and/or power generation limits shall be explained along with a description of the modifications necessary to remedy violations. Following a notification of disconnection of the renewable fuel generator, the customer must again complete the Notification process specified above prior to any subsequent reconnection.
- In addition, the customer shall notify the Company immediately regarding either any damage to the RF Generator facility or safety-related emergency disconnections.
8. The Company may enter the Customer's premises to inspect the Customer's protective devices and read or test the meter. The Company may disconnect the interconnection facilities without notice if the Company reasonably believes a hazardous condition exists and such immediate action is necessary to protect persons, or the Company's facilities, or property of others from damage or interference caused by the Customer's facilities.
9. Interconnection authorization is not transferable or assignable to other persons or service locations.

**C. Other**

1. The Company shall not be obligated to accept energy from the Customer and may require Customer to interrupt or reduce delivery of energy, when necessary, in order to construct, install, repair, replace, remove, investigate, or inspect any of the Company's equipment or part of its system; or if it reasonably determines that curtailment, interruption, or reduction is necessary because of emergencies, forced outage, force majeure, or compliance with prudent electrical practices. Whenever possible, the Company shall give the Customer reasonable notice of the possibility that interruption or reduction of deliveries may be required. Notwithstanding any other provision of this tariff, if at any time the Company reasonably determines that either the Renewable fuel generator facility may endanger the Company's personnel or other persons or property, or the continued operation of the RF Generator may endanger the integrity of safety of the Company's system, the Company shall reserve the right to disconnect and lock out the RF Generator from the Company's system. The RF Generator shall remain disconnected until such time as the Company is reasonably satisfied that the conditions referenced in this section have been satisfied.
2. To the fullest extent permitted by law, neither customer nor company, nor their respective officers, directors, agents, and employees members parents or affiliates, successors or assigns, or their respective officers directors, agents, nor employees successors or assigns shall be liable to the other party or their respective members, parents, subsidiaries, affiliates, officers, directors, agents employees successors or assigns, for claims, suits, actions or causes of action for incidental, indirect, special, punitive, multiple, or consequential damages connected with or resulting from performance or non-performance of such agreement, or any actions undertaken in connection with or related to this agreement, including without limitation, any such damages which are based upon causes of action for breach of contract, tort (including negligence and misrepresentation), breach of warranty, strict liability, statute, operation of law under any indemnity provision or any other theory of recovery. The obligor's liability shall be limited to direct damages only, and such direct damages shall be the sole and exclusive measure of damages and all other judicial remedies or damages are waived. The provisions of this section shall apply regardless of fault and shall survive termination, cancellation, suspension, completion or expiration of this agreement. Notwithstanding anything in this section to the contrary, any provisions of this section will not apply to the extent it is finally determined by a court of competent jurisdiction, including appellate review if pursued, to violate the laws of the Constitution of the State of Tennessee.

Issued:  
By: Charles Patton, President

Effective:  
Pursuant to an Order in  
Docket Number



KINGSPORT POWER COMPANY  
d/b/a AEP Appalachian Power  
Kingsport, Tennessee

Original Sheet Number 17-10  
T.R.A. Tariff Number 2

TARIFF N.M.S.-2  
(Net Metering Service Rider 2)

FACILITIES CHARGES

The customer is responsible for all equipment and installation costs of the renewable fuel generator facility.

The Company shall inspect the inverter settings of a static inverter-connected renewable fuel generator with capacity in excess of 10 KW prior to interconnection. The customer shall pay \$50 to the Company for each generator that requires inspection.

The Company shall inspect the protective equipment settings of a non-static inverter-connected renewable fuel generator prior to interconnection. The customer shall pay \$50 to the Company for each generator that requires inspection.

The customer shall pay to the Company any additional charges, as determined by the Company, for equipment, labor, metering, testing or inspections requested by the customer.

METERING

Net metered energy shall be measured in accordance with standard metering practices by metering equipment capable of measuring (but not necessarily displaying) power flow in both directions.

In instances where a Net Metering Customer has requested, and where the electric distribution company would not have otherwise installed, metering equipment, the Company may charge the Net Metering Customer its actual cost of installing any additional equipment necessary to implement Net Metering Service.

MONTHLY CHARGES

All monthly charges shall be in accordance with Tariff R.S.-D. or S.G.S.-D. under which the customer takes service. Such charges shall be based on the customer's net energy for the billing period, to the extent that the net energy exceeds zero. To the extent that a customer's net energy is zero or negative during the billing period, the customer shall pay only the non-usage sensitive charges of the Tariff. The customer shall receive no compensation from the Company for Excess Generation during the billing period. The Excess Generation during the billing period shall be carried forward and credited against positive energy usage in subsequent billing periods.

The Net Metering Period shall be defined as each successive 12-month period beginning with the first meter reading date following the date of interconnection of the RE Generator with the Company's facilities. Any Excess Generation at the end of a Net Metering Period shall be carried forward to the next Net Metering Period only to the extent that the Excess Generation does not exceed the customer's billed consumption for the current net metering period, adjusted to exclude accumulated billing period credit carried forward and applied from the previous net metering period.

Excess generation is not transferable, and the Customer shall receive no compensation from the Company for any Excess generation upon termination of service from the Company.

Issued:  
By: Charles Patton, President

Effective:  
Pursuant to an Order in  
Docket Number

KgPCo Exhibit No. \_\_\_\_  
Witness: WKC

**DIRECT TESTIMONY OF  
WILLIAM K. CASTLE  
ON BEHALF OF KINGSPORT POWER COMPANY  
D/B/A AEP APPALACHIAN POWER  
BEFORE THE TENNESSEE REGULATORY AUTHORITY  
DOCKET NO. 16- \_\_\_\_**

1    **Q.    PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION.**

2    A.    My name is William K. Castle. My business address is 1051 E. Cary St, Suite 1100,  
3        Richmond, VA. I am the Director of Regulatory Services VA/TN for Kingsport Power  
4        Company d/b/a AEP Appalachian Power (Kingsport, KgPCo or the Company).

5    **Q.    PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND**  
6        **BUSINESS EXPERIENCE.**

7    A.    I earned a Bachelor of Science degree in Mechanical Engineering from Tulane University  
8        in 1988, and a Masters of Business Administration degree from the University of Texas –  
9        Austin in 1998. I hold the Chartered Financial Analyst (CFA) designation. I have  
10       worked in the utility industry since 1998, beginning with the Columbia Energy Group,  
11       Herndon, Virginia, where I held positions in financial planning and corporate finance.  
12       Subsequent to the acquisition of Columbia Energy Group by Merrillville, Indiana based  
13       NiSource in 2000, I performed financial planning and analysis functions. Since 2004,  
14       and prior to my current position, I was employed by AEP Service Corporation in the  
15       Corporate Planning and Budgeting department. Assignments included resource planning  
16       and demand-side management analysis, which encompasses Energy Efficiency and  
17       Demand Response. I have been in my current position since July, 2014.

18

1 an annual review (§65-5-103). I also sponsor revisions to the Company's Tariff N.M.S.  
2 or Net Metering Service Rider, included as Exhibit No. 1(WKC) Tariff N.M.S. (Revised).

3 **Q: PLEASE DESCRIBE THE CHANGES THE COMPANY IS PROPOSING TO ITS**  
4 **NET METERING SERVICE RIDER.**

5 A: The current rider has some provisions that are confusing to current customers and has the  
6 potential to compensate them unequally based simply on the month they installed their  
7 generator. The proposed changes to the rider address these shortcomings and are  
8 consistent with the provisions contained in APCo Virginia's Optional Rider N.M.S. (Net  
9 Metering Service Rider). The changes are threefold. First, when determining the  
10 customer's billed consumption for purposes of determining the net energy, accumulated  
11 billing credits that are carried forward and applied from the previous net metering period  
12 are currently excluded from the calculation. Second, it is clarified that a \$50 inspection  
13 will only be charged to customers whose generators require inspections, as not all  
14 generators are necessarily inspected. Last, the proposed tariff clarifies that insurance  
15 requirements are specific to losses that arise from the use of the generator. The Company  
16 proposes to close this rider to new customers December 31, 2016. Customers wishing to  
17 interconnect renewable generators and engage in "net metering, on or after January 1,  
18 2017 would be required to take service under proposed Rider N.M.S.2.

19 **Q: PLEASE DESCRIBE THE RIDER N.M.S.-2.**

20 A: The Company proposes to close its current Rider N.M.S. to new customers at the end of  
21 2016 and introduce a new Rider N.M.S.-2. Participation in Rider N.M.S.-2 will require  
22 customers to take service under a demand-metered tariff. Customers on those tariffs will  
23 be required to pay, in addition to their basic service charge, a charge based on their

1 highest peak demand realized during the month, as measured by the demand meter.

2 Further, the energy component of the customer's bill will be charged, or credited, at the

3 Company's variable cost of production as described in the tariff.

4 **Q: WHAT IS THE BASIS FOR CLOSING THE RIDER N.M.S. TO NEW**  
5 **CUSTOMERS AND ADDING A NET METERING SCHEDULE THAT**  
6 **REQUIRES DEMAND METERS?**

7 **A:** The proposed rider reduces or eliminates the cross-subsidization that occurs with the  
8 current net metering construct. Currently, a customer on Rider N.M.S. that is served on a  
9 tariff that does not have a demand charge can effectively avoid paying a large portion of  
10 fixed charges by having his or her excess generation valued at the fully delivered cost, or  
11 retail rate. Those avoided fixed costs must be recovered from other customers. With the  
12 incorporation of demand meters, participating customers will be charged for the fixed  
13 infrastructure they utilize and their excess generation will effectively be valued at the  
14 Company's cost to purchase that generation from other sources. With both net metering  
15 riders, the customer retains all environmental attributes associated with this generation.

16 **DEMAND SIDE MANAGEMENT**

17 **Q. WHY IS KINGSPORT PROPOSING TO EXPAND ITS DSM PROGRAMS?**

18 **A.** The Company is proposing to expand the DSM Programs beyond Tariff RTODR to  
19 provide an opportunity for participating residential customers to lower their monthly  
20 electric bills. A well-implemented DSM program will provide benefits to both the  
21 Company and its customers and is proposing two programs.

BEFORE THE CORPORATION COMMISSION OF OKLAHOMA

IN THE MATTER OF THE APPLICATION OF )  
OKLAHOMA GAS AND ELECTRIC COMPANY )  
FOR AN ORDER GRANTING APPROVAL OF )  
NEW DISTRIBUTED GENERATION TARIFFS )  
PURSUANT TO TITLE 17, SECTION 156 )  
OF THE OKLAHOMA STATUTES )

CAUSE NO. PUD 201500274

**FILED**  
NOV 03 2015

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CORPORATION COMMISSION  
OF OKLAHOMA

RESPONSIVE TESTIMONY

OF

MARK E. GARRETT

ON BEHALF OF

THE ALLIANCE FOR SOLAR CHOICE ("TASC")

November 3, 2015

**Prepared Responsive Testimony of Mark E. Garrett  
November 3, 2015**

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**I. WITNESS IDENTIFICATION AND PURPOSE OF TESTIMONY**

1   **Q:   PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND CURRENT**  
2       **POSITION.**

3   A:   My name is Mark Garrett. My business address is 50 Penn Place, Suite 410, 1900 NW  
4       Expressway, Oklahoma City, Oklahoma 73118. I am the President of Garrett Group,  
5       LLC, a firm specializing in public utility regulation, litigation and consulting services.

6  
7   **Q:   PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND YOUR**  
8       **PROFESSIONAL EXPERIENCE RELATED TO UTILITY REGULATION.**

9   A:   I am an attorney and a certified public accountant. I work as a consultant in the area of  
10      public utility regulation. I received my bachelor's degree from the University of  
11      Oklahoma and completed postgraduate hours at the University of Texas and Stephen F.  
12      Austin State University. I received my juris doctorate degree from Oklahoma City  
13      University Law School and was admitted to the Oklahoma Bar in 1997. I am a Certified  
14      Public Accountant licensed in the States of Texas and Oklahoma with a background in  
15      public accounting, private industry, and utility regulation. In public accounting, as a  
16      staff auditor for a firm in Dallas, I primarily audited financial institutions in the State of  
17      Texas. In private industry, as controller for a mid-sized (\$300 million) corporation in  
18      Dallas, I managed the Company's accounting function, including general ledger,  
19      accounts payable, financial reporting, audits, tax returns, budgets, projections, and  
20      supervision of accounting personnel. In utility regulation, I served as an auditor in the  
21      Public Utility Division of the Oklahoma Corporation Commission from 1991 to 1995.

1 In that position, I managed the audits of major gas and electric utility companies in  
2 Oklahoma. Since leaving the Commission, I have worked on rate cases and other  
3 regulatory proceedings on behalf of various consumers and consumer groups.  
4

5 **Q: HAVE YOUR QUALIFICATIONS BEEN ACCEPTED BY THIS COMMISSION?**

6 A: Yes, they have. A more complete description of my qualifications and a list of the  
7 proceedings in which I have been involved are included at the end of my testimony as  
8 Exhibit MG-1.  
9

10 **Q: ON WHOSE BEHALF ARE YOU APPEARING IN THESE PROCEEDINGS?**

11 A: I am appearing on behalf of The Alliance for Solar Choice ("TASC"). TASC advocates  
12 for maintaining successful distributed solar policies nationwide. Founded by the largest  
13 rooftop companies in the nation, TASC represents the vast majority of the rooftop solar  
14 industry, including Demeter Power; Silevo; SolarCity; Solar Universe; Sunrun; Verengo;  
15 and ZEP Solar. These companies are responsible for tens of thousands of residential,  
16 commercial, school, and government solar installations across the country, and are  
17 engaged at the local, state, and national level. TASC's interest in this proceeding is to  
18 encourage customer choice and fair rate-setting practices for solar powered distributed  
19 generation.  
20

21 **Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

22 A: The purpose of my testimony is to address, from a ratemaking perspective, the



1 Application of Oklahoma Gas and Electric ("OG&E" or the "Company") to implement  
2 distributed generation ("DG") tariff changes in response to 2014 Senate Bill No. 1456  
3 ("S.B. 1456"), and to make recommendations to the Commission regarding the  
4 Company's proposed tariff changes. TASC's other witness, Justin Barnes, will provide  
5 testimony to address policy issues regarding the regulatory treatment of rooftop solar  
6 projects.

7  
8 **Q: PLEASE SUMMARIZE THE SPECIFIC RECOMMENDATIONS YOU MAKE**  
9 **IN YOUR TESTIMONY.**

10 **A:** I recommend that the Commission reject OG&E's Application for the following reasons:

- 11 • It is inconsistent with S.B. 1456 because it fails to demonstrate the existence of a  
12 subsidy for DG customers and the proposed tariffs are not cost-based.  
13
- 14 • From both a technical and policy perspective, it represents single-issue ratemaking,  
15 which has been disfavored by this Commission and others nationwide. OG&E's  
16 Application would only raise costs on DG customers without correspondingly  
17 lowering costs for other customers.  
18
- 19 • It contains several rate design flaws, including implementation of demand charges  
20 for residential customers. Residential customers are not equipped to respond to  
21 demand charges, and implementing demand charges for DG customers is  
22 inconsistent with the express language of S.B. 1456.  
23
- 24 • It fails to comply with the Commission-led stakeholders' collaborative process that  
25 was specifically designed to provide the necessary information for a transparent  
26 evaluation of DG rates.  
27
- 28 • It makes rate design recommendations for DG customers that are inconsistent with  
29 recommendations OG&E has put forward in prior rate cases.  
30

31 OG&E's Application proposes a set of tariffs that would dramatically, and negatively,  
32 impact DG customers and markets. I recommend that the Commission defer

1 consideration of new DG tariffs until OG&E presents, within the context of a general  
2 rate case, the information outlined in the stakeholders' Master Checklist, as this is  
3 necessary to enable the Commission to perform a full and fair evaluation of DG tariffs.

## **II. OVERVIEW OF OG&E'S APPLICATION FOR NEW DG TARIFFS**

### **4 Q: WHAT IS OG&E PROPOSING IN ITS APPLICATION?**

5 A: OG&E is proposing to change the structure of its tariffs for DG customers with  
6 installations placed in service after November 1, 2014. OG&E proposes to change its  
7 tariffs for new DG customers from the existing "customer charge/energy charge" model  
8 to a new "customer charge/energy charge/demand charge" model. The additional  
9 demand charge is the major change in the tariffs, and is similar to the type of demand  
10 charges industrial and large commercial tariffs include. OG&E also proposes that DG  
11 customers select between either a new net energy billing structure ("NEBO-kW") for  
12 those that intend to net meter, or an RPPO qualifying facilities schedule structured as a  
13 buy-all, sell-all tariff, if they think they may generate excess electricity beyond what they  
14 use on-site. The focus of my testimony will be on the NEBO-kW net metering tariff,  
15 while Mr. Barnes will address both that tariff and the RPPO tariff.

16 The NEBO-kW option allows a customer to offset its own energy needs with  
17 energy produced from its own DG system and be billed only for its net energy purchases  
18 each month from OG&E. Importantly, the tariff does not provide the customer with  
19 compensation for any energy produced from the DG system in excess of the customer's  
20 monthly usage, and does not allow any excess production during the month to offset the

1 monetary fixed or demand charges. In short, OG&E will not pay the customer for any  
2 excess energy produced from the DG system above the customer's own actual usage  
3 levels. OG&E keeps that energy for itself for free, selling at retail rates to other  
4 customers.

5 Under the residential DG tariff, R-TOU-kW, customers pay a higher customer  
6 charge of \$18.00/month, which is \$5.00/month more than the utility's other residential  
7 customers pay. The customers also pay higher energy rates of \$0.173/kWh for on-peak  
8 periods and \$0.0137 for off-peak periods. Residential DG customers are also required to  
9 pay to a new demand charge of \$2.68/kW of maximum demand. These rates differ  
10 substantially from the utility's existing residential TOU rates. The rates for OG&E's  
11 other customers, *i.e.* its non-DG residential customers, do not change under OG&E's  
12 proposed tariffs.

13 The new commercial rates for DG customers are also higher. Under the new  
14 commercial DG tariff, COM-TOU-kW, a small General Service customer pays an  
15 increase of about \$10/month in fixed charges increasing from \$24.70 to \$35.00/month, a  
16 demand charge of \$3.33/kW, and energy rates of \$0.1875/kWh for on-peak periods and  
17 \$0.0143/kWh for off-peak periods. The rates for other non-DG small General Service  
18 customers do not change under OG&E's proposal.

19  
20 **Q: WHAT WOULD THE RATE IMPACT BE ON A RESIDENTIAL TOU**  
21 **DISTRIBUTED GENERATION CUSTOMERS IF THE TOU-KW RATES**  
22 **RECOMMENDED BY OG&E IN THIS CAUSE ARE APPROVED?**

1 A: According to the Company's Response to Staff Data Request KJC-1,<sup>1</sup> the current  
2 average Residential DG customer will see rate increases of \$19.87 per month, increasing  
3 annual rates from about \$1,043 per year to \$1,282 per year excluding riders other than  
4 FCA. This would be an annual increase of \$238 per year, or a 23% increase for  
5 residential DG customers. Mr. Barnes discusses this impact calculation in more detail.  
6

7 **Q: WOULD CUSTOMERS MOVED TO THE COMMERCIAL TOU-KW RATES**  
8 **ALSO HAVE SIGNIFICANT RATE INCREASES?**

9 A: Yes. The Company's response to Staff Data Request KJC-1, indicated that the average  
10 costs to a Commercial TOU customer with distributed generation currently would  
11 increase from an estimated \$3,286 per year to approximately \$3,583 per year, excluding  
12 riders other than FCA. This would be an annual increase of \$297 per year, or an  
13 estimated 9% increase for commercial DG customers.  
14

15 **Q: IN ADDITION TO THE DATA REQUESTS AND RESPONSES, WHAT OTHER**  
16 **INFORMATION HAVE YOU REVIEWED IN PREPARING YOUR**  
17 **TESTIMONY IN THIS MATTER?**

18 A: I reviewed, among other things, OG&E's Application and the Direct and Supplemental  
19 Testimony and Exhibits of the Company's witness, Roger D. Walkingstick. I also  
20 reviewed Title 17, Section 156, as amended by Senate Bill 1456 ("S.B. 1456"), and  
21 Executive Order 2014-07 ("E.O. 2014-07"), signed by Governor Fallin on April 21,  
22 2014. These documents were attached to Mr. Walkingstick's Direct Testimony as

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<sup>1</sup> See OG&E's Response to Staff's Data Request, KJC 1-1 Att.2, attached as Exhibit MG-2.

1 Exhibits RDW-1 and RDW-2, respectively. Finally, I reviewed documents and materials  
2 related to the stakeholders' workshops conducted by the Oklahoma Corporation  
3 Commission to comply with the amended statutory requirements.  
4

5 **Q: WHAT IS THE PURPOSE OF SENATE BILL 1456?**

6 A: S.B. 1456 amends the existing provisions of Title 17, Section 156, which relates to  
7 public utilities' rate tariffs for DG customers. Specifically, the preamble of S.B. 1456  
8 states:

9 An Act relating to public utilities; amending 17 O.S. 2011,  
10 Section 156, which relates to distributed generation costs;  
11 defining terms; modifying prohibition relating to recovery of  
12 certain fixed costs from electric customers utilizing certain  
13 distributed generation; prohibiting subsidization of certain costs  
14 among customer class; requiring rate tariff adjustment by certain  
15 date; and providing an effective date.

16 Thus, in general terms, the primary purposes of S.B. 1456 are: (1) to require charges  
17 imposed upon DG customers to be cost-based; and (2) to prohibit subsidization of certain  
18 costs among customer classes. If it is established that new tariffs are required to  
19 accomplish these goals, these new tariffs are to be in place by December 31, 2015.

20 **Q: DO OG&E'S NEW TARIFFS, AS PROPOSED IN THIS APPLICATION,**  
21 **COMPLY WITH THE REQUIREMENTS OF THE STATUTE?**

22 A: No. In my view, the Company's proposed tariffs do not comply with the statute for  
23 several reasons. First, OG&E has failed to demonstrate that the proposed tariffs are cost-  
24 based. Second, the Company has failed to demonstrate whether, or the extent to which,

1       any subsidization of DG customers may exist. Third, the tariffs proposed by OG&E are  
2       not designed to eliminate subsidization among customer classes. Instead, the new tariffs  
3       merely impose rate increases on a single class, with no offsetting adjustments to any  
4       other classes. Further, S.B. 1456 states that it is not applicable to customers on demand  
5       charges, thus moving DG customers to a demand charge rate would have the impact of  
6       making them exempt from the provisions of S.B. 1456. For these reasons, OG&E's  
7       tariffs are actually inconsistent with the stated purposes of the statute, as I discuss in  
8       further detail in the sections below.

9  
10   **Q:   HOW DOES THE COMPANY DESCRIBE THE PROVISIONS OF SECTION 156**  
11   **AND ITS ATTEMPT TO COMPLY WITH THE STATUTE?**

12   A:   The Company's witness, Mr. Walkingstick, provides an overview of S.B. 1456 and  
13       discusses how he believes the proposed tariffs comply with the statute. The Company  
14       acknowledges that under the new statutory provisions, OG&E's charges for DG  
15       customers must be cost-based, and that "[t]he utility cannot include any charges onto the  
16       DG customer above the full costs associated in serving that customer."<sup>2</sup> The Company  
17       claims that under OG&E's existing tariffs, DG customers are subsidized by OG&E's  
18       other customers, and that OG&E has not addressed the issue of DG subsidization with  
19       the Commission before because the number of customers with DG installations was  
20       relatively small, and most DG units were appropriately sized to offset the customer's  
21       usage without causing other issues on the distribution system.<sup>3</sup>

---

<sup>2</sup> See Walkingstick Direct, p. 4, lines 23-24.

<sup>3</sup> See Walkingstick Direct, p.5, line 28 – p.6, line 3.

1           The Company claims its proposed new tariffs address the existing subsidy by  
2           imposing higher rate tariffs for new DG customers based on “embedded cost principles,”  
3           to better align prices with underlying costs for each component of electric service.<sup>4</sup>  
4           According to the Company, it is acceptable that the tariffs are designed using the existing  
5           Cost of Service Study (“COSS”) from the Company’s 2011 general rate case (Cause No.  
6           PUD 201100087), despite the fact that the Company has indicated it will file a general  
7           rate case with updated COSS in the next 30 days.<sup>5</sup> OG&E claims that implementing its  
8           proposed new tariffs now will benefit “all customers,”<sup>6</sup> and specifically DG customers.

9           The Company states:

10                   [O]G&E believes now is the time to address the issue before the  
11                   number of DG customers becomes significant. *If OG&E were to*  
12                   *wait to address the issue when the DG customer count is*  
13                   *significant, the impact would be economically disruptive to DG*  
14                   *customers.*<sup>7</sup>  
15

16           Finally, the Company makes the remarkable assertion that bringing this single-issue  
17           Application, apart from a general rate case proceeding, “allows interested parties the

---

<sup>4</sup> See Walkingstick Direct, p. 5, lines 3-5.

<sup>5</sup> See Walkingstick Direct, p.16, lines 24-29.

<sup>6</sup> See Walkingstick Direct, p.20, lines 18-23.

<sup>7</sup> See Walkingstick Direct, p.6, lines 5-8 (Emphasis added). The Company’s argument here is contradictory to economic realities. Having more DG customers on OG&E’s system would not be economically “disruptive” to DG customers, but instead would likely *lower* the economic impact on those customers. The truth is, the timing of the new tariffs is strategically important to OG&E. While the DG customer count is relatively low, it may be easier for OG&E to impose onerous tariffs that impede the growth of DG with less scrutiny (especially if OG&E is allowed to proceed with stale cost figures, without rate case review, and without addressing stakeholders’ concerns in any meaningful way).

1 opportunity to adequately address the issues associated with DG without the distraction  
2 of other issues generally associated with a rate case."<sup>8</sup>  
3

4 **Q: DO YOU AGREE WITH THE COMPANY'S POSITION?**

5 A: No. Although I agree that the statute requires cost-based rates for DG customers and  
6 that it prohibits subsidization, I do not agree that the Company's proposed tariffs comply  
7 with these statutory requirements. Moreover, I do not agree that the Company's  
8 approach benefits customers or that it is based on sound ratemaking principles. Utility  
9 commissions across the country have validated the approach of including solar rate  
10 discussions within general rate cases, most recently in Arizona where the Arizona  
11 Corporation Commission voted on October 20, 2015 to dismiss two utility applications  
12 for distinct solar rates, and instructed the utilities to file those proposals in general rate  
13 cases.  
14

15 **Q: DO YOU BELIEVE THE COMMISSION SHOULD APPROVE THE NEW**  
16 **TARIFFS TO SATISFY THE DECEMBER 31, 2015 DEADLINE IN S.B. 1456?**

17 A: No. First, E.O. 2014-07 makes it clear that "this Bill does not mandate tariffs or other  
18 increases for distributed generation customers." Thus, the Company's position is  
19 incorrect that new tariffs must be implemented by December 31, 2015 to satisfy the

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<sup>8</sup>See Walkingstick Direct, p.6, lines 17-20. (Emphasis added). Again, the Company's assertion defies logic. It makes very little sense to avoid "the distraction" of a rate case, and instead simply set new tariffs through a process in which the Company's cost assumptions cannot be verified or tested in any meaningful way. Contrary to the Company's position, approving these new tariffs in a vacuum (without testing the accuracy of OG&E's cost assumptions) is bad ratemaking policy, and is harmful to customers.



1 statutory requirements. Further, I am convinced there are too many serious problems  
2 with the Company's new tariffs, and with the manner in which the Company approached  
3 this Application, for the Commission to approve the new DG rates. I do not believe the  
4 Company's new tariffs comply with the statute. As I see it, the Company missed the  
5 statutory deadline by its failure to take the steps necessary to present the Commission  
6 with properly designed tariffs that comply with the key purposes of the statute: (1) cost-  
7 based rates and (2) elimination of any intra-class subsidization that may exist. The  
8 Company failed to timely conduct a Cost of Service Study in the context of a rate case to  
9 ensure its new tariffs were, in fact, cost-based, and to ascertain whether any  
10 subsidization of DG customers is occurring at the present time. OG&E's proposed  
11 tariffs are based on stale cost figures that do not accurately reflect current costs among  
12 customer classes.

13 In addition, the Company's calculation of the embedded costs of DG customers  
14 appears flawed because it fails to fully consider the benefits of DG to non-DG customers  
15 in its evaluation of the supposed "subsidy." Thus, the Company's calculation  
16 methodology appears to overstate actual costs for DG customers. Moreover, the new  
17 tariffs proposed in this Application do not actually eliminate any alleged subsidy. They  
18 increase the rates of one customer class, but do not provide corresponding decreases for  
19 other customer classes. A revenue increase without commensurate redistribution among  
20 other ratepayers cannot take place outside of a general rate case. I am concerned that the  
21 Company failed to provide the crucial information requested in the collaborative  
22 workshops by Staff and other stakeholders. Under the circumstances, the Commission

1 does not have sufficient basis on which to consider, much less approve, the proposed  
2 tariff changes. I believe it is highly inappropriate for the Company to rush the  
3 Commission to approve its ill-conceived new DG tariffs.

4  
5 **Q: PLEASE IDENTIFY THE SPECIFIC PROBLEMS YOU SEE WITH THE**  
6 **COMPANY'S NEW DG RATES PROPOSED IN THIS APPLICATION.**

7 **A:** From a ratemaking perspective, there are numerous problems with the Company's  
8 Application, including:

- 9 a) OG&E's new tariffs are based on single-issue piecemeal  
10 ratemaking;
- 11 b) the new tariffs are inconsistent with Title 17, Section 156, as  
12 modified by S.B. 1456;
- 13 c) the Application does not satisfy the compiled list of requirements  
14 identified through the OCC's collaborative stakeholders' process,  
15 more specifically, it does not provide valid cost information  
16 necessary for the consideration or approval of new tariffs;
- 17 d) the new tariffs are inconsistent with OG&E's positions in its 2011  
18 rate case; and
- 19 e) the new tariffs have rate design problems that need to be addressed  
20 in a rate case.

21  
22  
23  
24  
25 In the remaining sections of my testimony I discuss each of these problems and  
26 deficiencies in further detail.

27  
28 **III. DEFICIENCIES OF OG&E'S APPLICATION**

29 **A. OG&E's new tariffs are based on single-issue piecemeal ratemaking.**

1 Q: WHY DO YOU SAY THE COMPANY'S PROPOSAL IN THIS APPLICATION  
2 AMOUNTS TO PIECEMEAL RATEMAKING?

3 A: The rule against single-issue ratemaking makes it improper to consider in a vacuum  
4 specific identified changes in a utility's cost of service. Single-issue ratemaking is  
5 disfavored because it considers changes in isolation, thereby ignoring potentially  
6 offsetting considerations and risking understatement or overstatement of the overall  
7 revenue requirement.<sup>9</sup> The rule against piecemeal ratemaking ensures that the utility's  
8 revenue requirement is based on the utility's *total* costs, rather than on an insular set of  
9 costs related to a single component of the utility's operations.

10 In this Application, OG&E is proposing new rates and tariffs for a specific set of  
11 customers without providing the other customers with the offsetting rates and charges  
12 that would result as a consequence of the rates. In other words, OG&E is raising rates to  
13 one set of customers without lowering rates for the remaining customers. This is a  
14 classic example of single-issue ratemaking. If OG&E truly believed the DG customers  
15 were being subsidized, that subsidy could not be eliminated by merely raising rates for  
16 the DG customers. It could only be eliminated by both raising the rates for the  
17 subsidized DG customers and lowering the rate for those remaining customers who  
18 currently provide the subsidy. OG&E's proposal only addresses one side of the  
19 equation. Under OG&E's plan, the extra money that comes from the higher DG rates  
20 does not go back to the customers who allegedly provide the subsidy. It goes instead to  
21 the shareholders of the Company. This is the type of abuse that the prohibition against

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<sup>9</sup> *Turpen v. Oklahoma Corp. Commission*, 1988 OK 126, 769 P.2d 1309, 1316, n.7; *Citizens Utility Board v. Illinois Commerce Comm'n*, 166 Ill. 2d 111, 137, 651 N.E.2d 1089, 209 Ill. Dec. 641 (1995).

1 single-issue ratemaking is meant to avoid. Moreover, the alleged “embedded costs” and  
2 subsidies on which OG&E relies cannot be tested, or verified, when such costs are  
3 considered in a vacuum, without giving due consideration to offsetting benefits.  
4

5 **Q: HOW COULD OG&E COMPLY WITH THE REQUIREMENTS OF TITLE 17 §**  
6 **156 TO HAVE NEW TARIFFS IN PLACE BY THE END OF 2015 AND NOT**  
7 **RUN AFOUL OF THE RULE AGAINST SINGLE-ISSUE RATEMAKING?**

8 A: First of all, OG&E would have to demonstrate that a subsidy exists before the  
9 requirements of Title 17 § 156 would take effect, something OG&E has not done. But, if  
10 a subsidy did exist, and OG&E did need to propose new rates to eliminate the subsidy, it  
11 should have filed a rate case by June 30, 2015, so that new rates could be in effect by the  
12 end of the year. The Company’s proposed new tariffs are based on assumptions, and  
13 flawed ones at that. OG&E cannot show that its proposed new tariffs are based on actual  
14 cost (as required by the statute). In fact, there is no legitimate way to know whether a  
15 subsidy actually exists between one set of customers and other customers unless the  
16 utility conducts a comprehensive cost of service study contemporaneous with a full  
17 revenue requirement review, in other words, in a general rate case. Without a rate case,  
18 or at the very least a cost of service study, no cross-subsidization can be proven. This  
19 means the only way the Commission can comply with the statutes at this point is to leave  
20 the existing tariffs in place until the Company complies with the collaborative checklist  
21 and provides the information necessary to evaluate whether cross-subsidization is  
22 occurring.

1

2 **Q: WITHOUT A VALID, UP-TO-DATE COST OF SERVICE STUDY, CAN THE**  
3 **COMPANY PRODUCE SUFFICIENT EVIDENCE THAT A SUBSIDY EXISTS**  
4 **FOR THE DG CUSTOMERS?**

5 A: No. If the Company has the belief that a subsidy exists, it should have taken the  
6 appropriate steps to demonstrate the existence and extent of that subsidy to comply with  
7 the statute. However, the Company elected not to file its rate case and associated cost of  
8 service study in a timely manner. This could be because the Company is aware that if it  
9 developed a new revenue requirement based on current data, the results could  
10 demonstrate that the Company is over-earning and needs a rate reduction, indicating that  
11 all customers are over-paying for their utility costs across the board. In other words,  
12 before we can decide if a certain set of customers is being subsidized, we first must make  
13 sure the Company itself is not being subsidized.

14

15 **B. The new tariffs are inconsistent with Title 17, Section 156.**

16 **Q: WHY DO YOU BELIEVE OG&E'S PROPOSAL IS INCONSISTENT WITH**  
17 **THE STATUTE?**

18 A: In general terms, the main purposes of Title 17, Section 156, as modified by S.B. 1456  
19 are: (1) to require that charges imposed upon DG customers are to be cost-based; (2) to  
20 prohibit the subsidization of certain costs among customer classes, and (3) to require by  
21 December 31, 2015, rate tariff adjustments that are consistent with these provisions. I

1 will discuss the general applicability of this statute and then address each of these three  
2 purposes in turn.

3  
4 **Q: WHAT IS YOUR UNDERSTANDING OF “DISTRIBUTED GENERATION” AS**  
5 **THAT TERM IS DEFINED IN SECTION 156?**

6 A: “Distributed generation” as defined in Section 156, is a device that is: 1) owned,  
7 operated, leased, or otherwise operated by the customer; 2) is interconnected to and  
8 operates in parallel with the utility’s grid; 3) is in compliance with the utility’s safety and  
9 operational standards; and 4) is intended to offset only the energy that would have been  
10 provided by the utility to the customer.

11  
12 **Q: DOES THE RELEVANT STATUTORY LANGUAGE GIVE EXAMPLES OF**  
13 **SITUATIONS THAT ARE NOT “DISTRIBUTED GENERATION”?**

14 A: Yes. The statute provides examples of situations that are not considered “distributed  
15 generation.” Specifically, distributed generation does not include generators that are  
16 used exclusively for emergency purposes, generators operated and controlled by the  
17 utility; and those customers that receive electric service that includes a demand-based  
18 charge. This latter clause is important, as I will discuss later in my testimony.

19  
20 **Q: HOW IS A “RETAIL ELECTRIC SUPPLIER” DEFINED IN SECTION 156?**

21 A: The statute provides as follows:

1           “Retail Electric Supplier” means an entity engaged in the furnishing of  
2           retail electric service within the State of Oklahoma and is rate regulated  
3           by the Oklahoma Corporation Commission.  
4

5           Thus, as defined in Section 156, a “retail electric supplier” is essentially  
6           synonymous with a public utility in Oklahoma, such as OG&E.  
7

8   **Q:    PURSUANT TO THE STATUTE, ARE UTILITIES REQUIRED TO ESTABLISH**  
9   **CUSTOMER RATES AND CHARGES BASED ON ACTUAL COST?**

10 A:   Yes. Pursuant to the express language of Section 156, utilities are prohibited from  
11       increasing rates or establishing a surcharge above that required to recover the utility’s  
12       full costs necessary to serve a DG customer.  
13

14 **Q:    ARE THERE OTHER PROHIBITIONS SET FORTH IN SECTION 156?**

15 A:   Yes. After the effective date of the Act, those customers installing DG may not be  
16       subsidized by other customers that do not have DG.  
17

18 **Q:    ARE THERE SPECIFIC METHODS MENTIONED IN SECTION 156 AS A**  
19 **MEANS TO ADDRESS SUBSIDIZATION OF DG CUSTOMERS?**

20 A:   Yes. The relevant language specifically provides that a utility may choose to establish a  
21       higher fixed charge for those customers that install DG after the effective date of the  
22       Act. However, E.O. 2014-07 makes it clear that prior to the implementation of any fixed  
23       charges, the Commission is allowed to consider all available alternatives, including other

1 rate reforms such as increased use of time-of-use rates, minimum bills, and demand  
2 charges.

3  
4 **Q: PLEASE EXPLAIN WHAT A “FIXED CHARGE” IS.**

5 A: A “fixed charge” is any fixed monthly charge, basic service charge, or other charge not  
6 based on the volume of electricity consumed by the customer, and which reflects the  
7 actual fixed costs of the utility.

8  
9 **Q: WHAT IS THE TYPICAL METHOD USED BY UTILITIES TO DETERMINE**  
10 **THE ACTUAL COSTS NECESSARY TO SERVE A CERTAIN CUSTOMER**  
11 **CLASS OR GROUP?**

12 A: Utilities typically conduct a cost of service study to determine the actual costs necessary  
13 to serve a particular customer class.

14  
15 **Q: IS A COST OF SERVICE STUDY NECESSARY TO COMPLY WITH THE**  
16 **PROVISIONS OF SECTION 156?**

17 A: Yes. Pursuant to Section 156, a utility may not increase rates or enforce a surcharge  
18 above the level required for the utility to recover the full costs necessary to serve the DG  
19 customers. In my opinion the full costs attributable to DG customers, or any other  
20 customers of OG&E, cannot be accurately established without a cost of service study.



1   **Q:    WAS A COST OF SERVICE STUDY RECENTLY CONDUCTED BY OG&E TO**  
2       **DETERMINE THE ACTUAL COSTS NECESSARY TO SERVE DG**  
3       **CUSTOMERS?**

4   A:   No.

5

6   **Q:    WHEN WAS OG&E'S LAST COST OF SERVICE STUDY PERFORMED?**

7   A:   To my knowledge, the last cost of service study conducted by OG&E was the study used  
8       in its last approved rate case, Case No. PUD 201100087.

9

10  **Q:    ARE YOU CONCERNED THAT OG&E'S COST OF SERVICE STUDY USED**  
11       **IN THIS APPLICATION IS APPROXIMATELY FIVE YEARS OLD?**

12  A:   Yes. In my opinion a 5-year-old cost of service study is not appropriate.

13

14  **Q:    WHAT IS THE PROBLEM WITH OG&E USING A "STALE" COST OF**  
15       **SERVICE STUDY IN THIS APPLICATION?**

16  A:   Section 156 requires tariffs be set based on the "full costs necessary to serve customers  
17       who install distributed generation." A 5-year-old cost of service study does not provide  
18       accurate and reliable information necessary to determine the "full costs necessary" as  
19       provided by the statute.

20

21  **Q:    WHY IS A CURRENT, ACCURATE COST OF SERVICE STUDY IMPORTANT**  
22       **AND NECESSARY TO COMPLY WITH THE PROVISIONS OF SECTION 156?**

1 A: As I discussed above, the statutory language explicitly prohibits a utility from increasing  
2 rates or establishing a surcharge greater than the actual full cost of the utility to serve  
3 that customer group. Unless OG&E establishes with specificity the actual cost to serve  
4 each customer group through a valid current cost of service study, it cannot show that its  
5 proposed rates recover *only* the actual cost of providing service to those customer  
6 classes, as required by the statute.

7

8 **Q: DO THE COMPANY'S PROPOSED TARIFFS IN THIS APPLICATION**  
9 **COMPLY WITH THE FIRST PURPOSE OF SECTION 156?**

10 A: No. The proposed tariffs are not compliant with the explicit provisions of Section 156  
11 because they are not based on a current cost of service study and so are not "cost-based."  
12 Current data is necessary to accurately and specifically identify the full costs to serve  
13 DG customers.

14

15 **Q: DOES THE COMPANY'S PROPOSAL DEMONSTRATE THAT CROSS-**  
16 **SUBSIDIZATION IS OCCURRING, CONSISTENT WITH THE SECOND**  
17 **PURPOSE OF SECTION 156?**

18 A: No. As a prerequisite to implementing a tariff designed to address subsidization, a utility  
19 must show that a subsidy of distributed generation customers actually exists. For the  
20 reasons I have previously discussed, OG&E has not made the fundamental showing of  
21 subsidization of DG customers because it has not presented a full cost of service study.  
22 In my opinion, the Company has not provided sufficient support for the proposed tariffs,

1 and it cannot do so without a current, reliable and accurate cost of service study. Mr.  
2 Barnes discusses in more detail how OG&E has failed to address whether there is a  
3 subsidy issue from the broader perspective of the costs and benefits associated with net  
4 metering.

5  
6 **Q: IN YOUR OPINION, SHOULD OG&E ADDRESS THE ISSUE OF A**  
7 **"DISTRIBUTED GENERATION" TARIFF IN THE CONTEXT OF ITS**  
8 **UPCOMING RATE CASE?**

9 A: Yes. That would make the most sense. At that time, OG&E will have conducted the  
10 cost of service study and have access to data that provides more definitive information as  
11 to the full costs to serve the DG customers.

12  
13 **Q: PLEASE DISCUSS WHETHER SECTION 156 REQUIRES THE UTILITY TO**  
14 **IMPLEMENT NEW TARIFFS NO LATER THAN DECEMBER 31, 2015.**

15 A: As noted in E.O. 2014-07, the Bill does not mandate tariffs or other increases for DG  
16 customers. Instead, the statute requires that if the utility demonstrates that new tariffs  
17 are required to eliminate cross-subsidization, such new tariffs should be implemented by  
18 December 31, 2015. The problem is, the Company has presented the Commission with  
19 tariffs that are, by design, inconsistent with the statute. The Company urges prompt  
20 approval of the tariffs, claiming "there is ample time available for the Commission to  
21 review and accept or reject the provisions of OG&E's proposal in this proceeding" before

1 the December 31, 2015 deadline.<sup>10</sup> However, that misses the point. Implementing tariffs  
2 that do not comply with the purpose of the statute, just to meet the deadline in the statute,  
3 is a classic case of form over substance. Implementing new tariffs that are not cost-  
4 based, and failing to accurately demonstrate the existence of a subsidy, would be a  
5 solution that is far worse than the alleged problem the statute was enacted to address. If  
6 the Company had been truly concerned about the existence of a subsidy for DG  
7 customers, there was plenty of time and opportunity for it to prepare a cost of service  
8 study as requested in conjunction with the Commission's collaborative stakeholders'  
9 process. The Company chose not to do so for its own reasons.

10  
11 **Q: ARE THERE OTHER PROBLEMS WITH THE COMPANY'S PROPOSED**  
12 **TARIFFS?**

13 A: Yes. Section 156(A)(1)(f) explicitly states that "distributed generation" "does not  
14 include customers who receive electric service which includes a demand-based charge."  
15

16 **Q: WHY IS THIS PROVISION IMPORTANT IN THE CURRENT APPLICATION?**

17 A: OG&E is proposing a tariff that applies a demand-based charge to distributed generation  
18 customers. This appears inconsistent with the specific example in the statute of  
19 situations that do not constitute "distributed generation." In other words, the language of  
20 Section 156(A)(1)(f) seems to prohibit the use of a demand-based charge to address the  
21 alleged subsidization of distributed generation customers.

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<sup>10</sup> See Walkingstick Direct, p. 5, lines 25-26.

1

2 **Q: WHY DO YOU BELIEVE THE LANGUAGE PROHIBITS THE USE OF A**  
3 **DEMAND-BASED CHARGE TO ADDRESS SUBSIDIZATION?**

4 A: I believe that by statutory definition, when a utility implements a tariff that applies a  
5 demand-based charge to a customer who has installed DG equipment, that customer  
6 would no longer be a DG customer. The legislature surely did not intend such a  
7 paradoxical result.

**C. The Company's Application ignores the collaborative stakeholders' process.**

8 **Q: DID THE GOVERNOR'S EXECUTIVE ORDER 2014-07 REQUIRE THE**  
9 **COMMISSION TO ENGAGE IN A TRANSPARENT EVALUATION PROCESS**  
10 **TO SEEK STAKEHOLDERS' COLLABORATIVE INPUT PRIOR TO**  
11 **IMPLEMENTATION OF NEW DG TARIFFS.**

12 A: Yes. On April 21, 2014 Governor Mary Fallin (the "Governor") signed S.B. 1456 into  
13 law. At the same time, E.O. 2014-07 directed the Commission to strictly comply with  
14 Section 156 of Title 17 of the Oklahoma Statute ("17 O.S. §156") in accordance with the  
15 goal and intent of the Oklahoma First Energy Plan and S.B. 1456. Specifically, E.O.  
16 2014-07 states, in pertinent part (emphasis added):

17 This Bill requires the Corporation Commission to conduct a transparent  
18 evaluation of distributed generation consistent with the Oklahoma First  
19 Energy Plan. The intent of this Bill is to protect all Oklahoma  
20 customers and encourage all forms of Oklahoma energy use.

21  
22 Further, this evaluation mandates inclusion of all stakeholders,  
23 including representatives of the solar and distributed wind industries,  
24 and utilities. Prior to implementation of any fixed charges, this Bill

1 allows the Commission to consider the use of all available alternatives,  
2 including other rate reforms such as increased use of time-of-use rates,  
3 minimum bills, and demand charges. A proper and required  
4 examination of these and other rate forms will ensure that Oklahoma  
5 appropriately implements the Oklahoma First Energy Plan while  
6 protecting future distributed generation customers.

7 **Q: DID THE COMMISSION COMPLY WITH EXECUTIVE ORDER 2014-07?**

8 A: Yes. On September 11, 2014 and October 30, 2014, the Commission conducted public  
9 meetings, led by Commissioner Dana Murphy, to “prepare for and discuss Senate Bill  
10 1456 that becomes effective November 1, 2014, by gathering information and input  
11 about distributed generation.” As result of these collaborative stakeholders’ meetings,  
12 the concept of a “Master Checklist” emerged. Essentially, the Master Checklist became  
13 the compilation of ideas, concepts and general information provided by interested  
14 stakeholders and members of the public, intended to serve as a guide for the Commission  
15 in its review of distributive generation tariff application.  
16

17 **Q: PLEASE DESCRIBE HOW THE MASTER CHECKLIST WAS FINALIZED?**

18 A: On March 31, 2015, the Commission hosted a Distributive Generation Technical  
19 Conference, which allowed for last minute inputs from interested stakeholders. In sum,  
20 the Commission’s 7-month process of open meetings and technical conferences provided  
21 all interested parties an objectively neutral and transparent platform to voice their  
22 respective opinions, whether in support or opposition of DG tariffs. The finalized Master  
23 Checklist, then, became the compiled list of information that the Company was to  
24 include in its tariff application.

1

2 **Q: DID THE COMMISSION'S COLLABORATIVE PROCESS COMPLY WITH**  
3 **THE GOVERNOR'S MANDATE?**

4 A: Yes. I believe the Commission's collaborative process developed a sound approach for  
5 evaluating proposed new DG tariffs. Interested stakeholders, including OG&E,  
6 participated and provided opinions regarding calculation of "full cost" for a DG tariff.  
7 The Master Checklist clearly defined the information the Commission would need to  
8 effectively consider the Company's tariff application. By doing so, the Commission not  
9 only complied with the Governor's mandate, but also provided transparency for all  
10 interested parties as to the information to be considered in determining the costs and  
11 benefits of distributed generation, as a necessary step for implementation of DG tariffs.

12

13 **Q: DID OG&E PARTICIPATE IN THE COMMISSION'S COLLABORATIVE**  
14 **PROCESS FROM WHICH THE MASTER CHECKLIST WAS COMPILED?**

15 A: Yes. The Company was involved in the development of the Master Checklist, which  
16 included exploring alternatives to a checklist approach, analyzing approaches from other  
17 jurisdictions and neighboring states, and fully reviewing all comments and submitted  
18 information. Thus, the Company was aware that the Commission Staff and other  
19 stakeholders expected that the information in Master Checklist would be incorporated as  
20 part of the Company's application for new DG tariffs.

21

22 **Q: DID OG&E INCORPORATE THE ITEMS FROM THE MASTER CHECKLIST**

1           **IN ITS APPLICATION FOR NEW DG TARIFFS?**

2       A:    No. The Company has essentially ignored the vast majority of the Master Checklist, and  
3       in so doing, has undermined the collaborative process, as shown in Table 1 below.



| Table 1: Distributed Generation - Items to be included in Tariff Application |   |                               |
|--|---|-------------------------------|
| How to measure subsidies:  |   | Did OG&E Sufficiently Comply? |
| Costs:   |   |                               |
| 1  | Class Cost of Service Study   | No                            |
|  | a) Separate class for Distributed Generation(DG) customers  | No                            |
|  | b) unit costs to unbundle functions and allocation reporting  | No                            |
| 2  | Rate Design- Governor's Order 2014-07 (SB 1456)<br>- consider rates before increasing fixed charge      |                               |
|  | a) Time of Use (TOU) rates  | Yes                           |
|  | b) Demand rates   | Yes                           |
|  | c) minimum bills  | No                            |
|  | d) unbundled rates-separate charges for customer, delivery, supply                                      | Partially                     |
| 3  | Metering  |                               |
|  | a) Metered loads before/after DG installation   | Yes                           |
|  | b) Demand/interval readings available from installed meters?  | Partially                     |
|  | c) Separate meter for DG installation   | No                            |
| 4  | Additional Costs of DG-Interconnection cost due to Safety & Reliability                                 | No                            |
| 5  | Impact of rate design proposal on other customers   | No                            |
| 6  | Lost revenue calculation due to DG for both demand and non-demand DG customers                          | No                            |
|  | a) workpapers showing lost revenues over last 3 years as percent of total revenues                      | No                            |
|  | b) projected lost revenues with proposed rate design changes  | No                            |
| 7  | Lost revenue calculation due to Energy Efficiency (Demand Programs)                                     |                               |
|  | a) workpapers showing lost revenues as percent of total revenues  | No                            |
| Benefits:  |   |                               |
| 8  | Benefits Study (high, medium, low scenarios when specifics are unknown)                                 | No                            |
|  | a) avoided energy cost  | No                            |
|  | b) avoided generating capacity costs  | No                            |
|  | c) Transmission & Distribution (T&D) line loss reduction (avoided transmission/distribution investment) | No                            |
|  | d) Environmental benefits ( emission mitigation costs)  | No                            |
|  | e) avoided purchased power/risk   | No                            |
|  | f) avoided grid support   | No                            |
|  | g) Economic development   | No                            |
| 9  | Effect of net exported kWhs - no carryover - with existing rate   | No                            |
|  | a) how many kWhs are net exports (absorbed and receive no credit)                                       | No                            |
|  | b) revenue received by utility for excess kWhs sold   | No                            |
|  | c) value of excess kWh - avoided costs  | No                            |
| 10   | Benefits to safety/reliability due to DG.   | No                            |

1 **Q: WHAT DOES THE TABLE ABOVE INDICATE REGARDING OG&E'S**  
2 **APPLICATION?**

3 A: Generally speaking, it demonstrates that OG&E's Application is insufficient. The  
4 Company's Application does not provide a cost of service study as was clearly  
5 articulated by the Master Checklist. Further, it does not reflect load profiles of DG  
6 customers, does not provide a cost/benefit analysis, and does not provide correct avoided  
7 cost calculations. There is nothing in the filing about the benefits to the system of the  
8 excess generation. The stakeholders' collaborative process clearly articulated that with a  
9 new tariff the excess generation benefits must be acknowledged. Because sufficient data  
10 was not filed the Company's Application should be rejected.

11  
12 **Q: IN YOUR VIEW, WHAT ARE THE CONSEQUENCES OF OG&E'S FAILURE**  
13 **TO ADHERE TO THE MASTER CHECKLIST?**

14 A: Because OG&E's Application did not adhere to the Master Checklist, the Company's  
15 Application is seriously flawed. It violates the applicable statute and E.O. 2014-07. By  
16 going through the motions during the collaborative stakeholders' process, but failing to  
17 comply with the resulting Master Checklist, the Company has wasted the time and  
18 efforts of the Commission and the other stakeholders, and has unnecessarily delayed the  
19 process. The Master Checklist was designed specifically for the purpose of establishing  
20 the fundamental information the Commission would need to perform a "transparent  
21 evaluation," as required by the Governor's Order, and to comply with the clear  
22 requirements of 17 O.S. §156. Because OG&E chose to ignore the Master Checklist

1 prepared in the stakeholders' collaborative process, the Commission lacks necessary  
2 information to even consider the Company's Application at this time. The Commission  
3 should therefore reject OG&E's proposed new tariffs.

**D. The new tariffs are inconsistent with OG&E's positions in its 2011 rate case.**

4 **Q: HOW ARE THE RATE INCREASES PROPOSED BY OG&E IN THIS CASE**  
5 **INCONSISTENT WITH THE COMPANY'S LAST RATE CASE WHERE THE**  
6 **COMPANY SUPPORTED REDUCING NON-DEMAND TIME-OF-USE**  
7 **TARIFFS?**

8 **A:** In OG&E's last rate case, in the testimony of Gregory Tillman filed July 28, 2011,  
9 OG&E recommended a reduced customer charge for TOU customers relative to the  
10 residential class standard tariff customer charge. The rationale for the proposed rate  
11 reduction for TOU customers was that the reduced customer charge would encourage  
12 customer subscription to the optional TOU rates. The Company was specifically  
13 targeting non-demand customers, stating that "[t]he Company believes there is an  
14 opportunity to expand participation in the non-demand TOU programs which in turn  
15 could produce a significant reduction in peak demand."<sup>11</sup>

16  
17 **Q: ARE THERE MATERIAL BENEFITS FROM THE "SIGNIFICANT**  
18 **REDUCTION IN PEAK DEMAND" THE COMPANY WAS TRYING TO**  
19 **ACHIEVE BY EXPANDING PARTICIPATION IN THE TOU PROGRAMS?**

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<sup>11</sup> See Direct Testimony of OG&E witness Gregory W. Tillman, Docket No. 201100087, p.23, lines 21-24; and p. 25, lines 3-9.

1 A: Yes. There are significant benefits, both short-term and long-term, from reducing on-  
2 peak usage. Since on-peak power is the most expensive power to produce or acquire,  
3 customers save money in the short term when the Company can produce or acquire less  
4 of this power. In the long term, customers save from reducing the system peak when  
5 power plants needed to meet the peak are pushed out farther into the future. So the  
6 Company was exactly right in its last rate case when it wanted to encourage TOU  
7 participation in order to reduce peak demand.

8 The Company's change of position—from reducing the customer charge to  
9 encourage TOU participation to now raising the customer charge to discourage TOU-DG  
10 participation—in such a short time, seems inexplicable, but it's really not. TOU  
11 participation reduces peak demand and saves money; therefore, it should be encouraged  
12 with lower customer charges. But TOU-DG participation, on the other hand, although it  
13 also reduces peak demand and also saves money, has the distinct disadvantage of  
14 reducing shareholders' profits in the process; therefore, from the Company's perspective,  
15 it must be discouraged with higher customer charges and a new demand charge, in case  
16 the higher customer charge is not enough. The Company's motivations are transparent  
17 and inexcusable. DG also has the ability to provide "significant reduction in peak  
18 demand." If there are benefits to reducing peak demand, and there clearly are, then DG  
19 should be encouraged through rate design as well.

20  
21 **Q: ARE THERE OTHER INCONSISTENCIES WITH THE COMPANY'S**  
22 **PROPOSED TARIFFS?**

1 A: Yes. Another major inconsistency is that the Company is providing no educational  
2 effort to inform customers about how these major changes in the rate structure will  
3 impact their rates. At page 8 of his Direct Testimony, Mr. Walkingstick suggests that  
4 “Customers that entered into DG installation on or after November 1, 2014 should have  
5 been made aware by their DG installer that DG related rates were likely to change  
6 because of the Act.” The problem with Mr. Walkingstick’s logic is that it is OG&E that  
7 is changing its rates, not the DG installers. Thus, it is OG&E’s responsibility to inform  
8 its customers of a rate change as significant and complex as the one it recommends,  
9 especially when it comes to TOU customers.

10

11 **Q: HOW IS OG&E’S POSITION IN THIS CASE INCONSISTENT WITH ITS**  
12 **POSITION IN ITS 2011 RATE CASE WHEN IT WAS TRYING TO PROMOTE**  
13 **TOU RATES?**

14 A: When trying to promote the implementation of TOU rates in its last rate case, the  
15 Company was very supportive of educational efforts. In fact, Mr. Tillman, states at page  
16 14 of his testimony, “OG&E believes an educational effort highlighting these optional  
17 pricing plans would provide the needed information for our customers to make choices  
18 that benefit them individually and all the other OG&E customers as well.” In the  
19 Company’s prior testimony, it admitted two important things that it does not admit in  
20 this case: (1) that educational efforts are needed to help promote complex rates and (2)  
21 that TOU rates, which would include TOU-DG rates, benefit all customers.

22

1 **E. The new tariffs have rate design problems that need to be addressed in a rate case.**

2 **Q: MR. WALKINGSTICK INDICATES THAT DEMAND RATES ARE REQUIRED**  
3 **FOR TOU CUSTOMERS WITH DISTRIBUTED GENERATION. DO YOU**  
4 **AGREE?**

5 A: No. Mr. Walkingstick indicates that a higher fixed charge is required for TOU  
6 customers with distributed generation to avoid subsidization within the class. However,  
7 Section D of the Act that Mr. Walkingstick references only indicates that a “higher fixed  
8 charge” may be used as a means to avoid subsidization. Mr. Walkingstick recommends  
9 both a higher fixed charge and a new demand charge on top of that. His  
10 recommendations add substantial and unnecessary burdens to the Residential and  
11 Commercial TOU customers. Further, from a rate design perspective, demand rates on  
12 small customers are highly unusual and virtually nonexistent for residential customers.  
13 Instead, non-demand rate options are used for residential and for small non-residential  
14 customers throughout the country. Mr. Barnes testifies that he is aware of no state-  
15 regulated utility that imposes mandatory demand rates on residential customers as a  
16 whole, or imposes them universally on DG customers. OG&E seeks a rate design in this  
17 Application that is unprecedented on a national level. The only example of demand rates  
18 imposed on DG customers comes from Salt River Project (SRP) in Arizona, an entity not  
19 regulated by the Arizona Corporation Commission. SRP implemented DG demand  
20 charges in February 2015, which, as witness Barnes discusses, led to a 96% decrease in  
21 solar adoption. That decrease has been sustained, and a once booming solar market is  
22 near dead.

1

2 **Q: DO YOU HAVE CONCERNS WITH HOW OG&E DEVELOPED THE**  
3 **PROPOSED DG-TOU DEMAND RATES FOR THE RESIDENTIAL AND**  
4 **COMMERCIAL CLASSES?**

5 A: Yes. In developing these TOU demand tariffs ("DG-TOU"), OG&E relied on the Cost  
6 of Service Study results for the standard residential and standard general service classes  
7 from the Company's 2011 rate case. This does not satisfy the Act. Section 1 (C) of the  
8 Act prohibits subsidization of DG customers by "customers in the same class of service  
9 who do not have distributed generation." Because OG&E's current DG customers are  
10 on TOU rates, customers affected by OG&E's proposed rates belong to the Residential  
11 TOU and the General Service TOU classes. They are not members of the standard  
12 classes. Simply put, the rate development should come from within the classes to which  
13 these customers belong, the Residential TOU and Commercial TOU classes, not the  
14 standard Residential and Commercial classes.

15

16 **Q: HAS MR. WALKINGSTICK PROVIDED EVIDENCE THAT A SUBSIDY FOR**  
17 **DG CUSTOMERS EXISTS WITHIN THE TOU CLASSES?**

18 A: No. No evidence was provided in this case, and, in fact, none could have been provided  
19 in this case based on OG&E's chosen approach. Sufficient evidence of a subsidy  
20 between classes can only be determined in the context of a general rate case review  
21 where a contemporaneous cost of service study is performed using the utility's current  
22 revenue requirement, current billing determinants, current costs and current cost

1 allocations. Furthermore, TOU rates have differing goals than standard rates, and those  
2 goals need to be taken into consideration. The primary goal of time-of-use rates is to  
3 reduce peak demand. Any proposed rate design that inhibits the ability of TOU rates to  
4 achieve that goal should be carefully scrutinized by the Commission.  
5

6 **Q: ARE THERE BENEFITS SPECIFICALLY ATTRIBUTED TO DG THAT**  
7 **WOULD HAVE TO BE TAKEN INTO CONSIDERATION IN DETERMINING**  
8 **WITHER A SUBSIDY EXISTS BETWEEN DG AND OTHER CUSTOMERS?**

9 A: Yes. There are the long-term planning benefits associated with all TOU rates, by which  
10 customers save when the addition of power plants needed to meet peak demand are  
11 pushed farther into the future. Also, there are more immediate short-term benefits not  
12 recognized by the Company in this Application. For instance, the NEBO-kW option  
13 does not allow for excess generation from the DG units to be carried over from month to  
14 month or used to offset other rates and charges incurred by the DG customer. Instead, the  
15 value of the excess generation is retained by the Company and passed on to other  
16 customers through the Fuel Clause Adjustment ("FCA"). This benefit to other customers  
17 would have to be quantified and included as an offset in any legitimate calculation of the  
18 subsidization of DG customers. According to TASC witness, Justin Barnes, Oklahoma  
19 is the only state in the country where utilities are not required to provide some credit for  
20 monthly net excess generation exported to the grid.  
21



1    **Q:    IS IT YOUR RECOMMENDATION THAT NO NEW TOU RESIDENTIAL OR**  
2    **TOU COMMERCIAL CLASS TARIFFS ARE NEEDED AT THIS TIME?**

3    A:    Yes.    The DG-TOU Tariffs proposed by OG&E are inappropriately calculated and  
4    should not be implemented at this time.

5  
6    **Q:    YOU MENTIONED EARLIER THAT NEW DG-TOU RATES SHOULD ONLY**  
7    **BE DETERMINED IN THE CONTEXT OF A FULL RATE CASE REVIEW**  
8    **WITH A CONTEMPORANEOUS COST OF SERVICE STUDY WHERE THE**  
9    **RATES AND CHARGES OF ALL CUSTOMERS CLASSES COULD BE**  
10   **REVIEWED TOGETHER. IS THAT A REALISTIC OPTION FOR OG&E?**

11   A:    Yes. OG&E will file its next rate case in November of this year. Since a rate case is the  
12   proper venue for setting new rates, and OG&E has one coming on the near horizon, I  
13   recommend that the DG-TOU rates be reviewed in that proceeding along with the rates  
14   of all other customer classes.

15  
16   **IV. CONCLUSION**

17   **Q:    PLEASE SUMMARIZE YOUR CONCLUSIONS AND RECOMMENDATIONS.**

18   A:    I recommend that the Commission reject OG&E's application. The application is  
19   inconsistent with S.B. 1456 because it fails to demonstrate the existence of a subsidy for  
20   DG customers and the proposed tariffs are not cost-based. From both a technical and  
21   policy perspective, it represents single-issue ratemaking, which has been disfavored by  
22   this Commission and others nationwide. OG&E's application would only raise costs on

1 DG customers without correspondingly lowering costs for other customers. It contains  
2 several rate design flaws, including implementing demand charges for residential  
3 customers. Residential customers are not equipped to respond to demand charges, and  
4 they are not required by S.B. 1456. It fails to comply with the Commission-led  
5 stakeholders' collaborative process that was specifically designed to provide the  
6 necessary information for a transparent evaluation of DG rates. It makes rate design  
7 recommendations for DG customers that are inconsistent with recommendations OG&E  
8 has put forward in prior rate cases. For these reasons, I recommend that the Commission  
9 defer consideration of new DG tariffs until OG&E presents, within the context of a  
10 general rate case, the information outlined in the stakeholders' Master Checklist as this is  
11 necessary to enable the Commission to perform a full and fair evaluation of DG tariffs.

12  
13 **Q: DOES THIS CONCLUDE YOUR TESTIMONY?**

14 **A:** Yes, it does.

# Exhibit MG-1

**MARK E. GARRETT**

**CONTACT INFORMATION:**

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1900 NW Expressway  
Oklahoma City, OK 73118  
(405) 239-2226

**EDUCATION:**

Juris Doctor Degree, With Honors, Oklahoma City University Law School, 1997  
Post Graduate Hours in Accounting, Finance and Economics, 1984-85:  
University of Texas at Arlington; University of Texas at Pan American;  
Stephen F. Austin State University  
Bachelor of Arts Degree, University of Oklahoma, 1978

**CREDENTIALS:**

Member Oklahoma Bar Association, 1997, License No. 017629  
Certified Public Accountant in Oklahoma, 1992, Certificate No. 11707-R  
Certified Public Accountant in Texas, 1986, Certificate No. 48514

**WORK HISTORY:**

**GARRETT GROUP, LLC - REGULATORY CONSULTING PRACTICE (1996 - Present)**

Participates as a consultant and expert witness in electric utility, natural gas distribution company, and natural gas pipeline matters before regulatory agencies making recommendations related to cost-based rates. Reviews management decisions of regulated utility companies for reasonableness from a ratemaking perspective especially regarding the reasonableness of prices paid for natural gas supplies and transportation, coal supplies and transportation, purchased power and renewable energy projects. Participates in gas gathering, gas transportation, gas contract and royalty valuation disputes to determine pricing and damage calculations and to make recommendations concerning the reasonableness of charges to royalty and working interest owners and other interested parties. Participates in regulatory proceedings to restructure the electric and natural gas utility industries. Participates as an Instructor at NMSU Center for Public Utilities and as a Speaker at NARUC Staff Subcommittee on Accounting and Finance.

**OKLAHOMA CORPORATION COMMISSION - Coordinator of Accounting and Financial**

**Analysis (1991 - 1994)** Planned and supervised the audits of major public utility companies doing business Oklahoma for the purpose of determining revenue requirements. Presented both oral and written testimony as an expert witness for Staff in defense of numerous accounting and financial recommendations related to cost-of-service based rates. Audit work and testimony covered all areas of rate base and operating expense. Supervised, trained and reviewed the audit work of numerous Staff CPAs and auditors. Promoted from Supervisor of Audits to Coordinator in 1992.

**FREEDOM FINANCIAL CORPORATION - Controller (1987 - 1990)**

Responsible for all financial reporting including monthly and annual financial statements, cash flow statements, budget reports, long-term financial planning, tax planning and personnel development. Managed the General Ledger and Accounts Payable departments and supervised a staff of seven CPAs and accountants. Reviewed all subsidiary state and federal tax returns and facilitated the annual independent financial audit and all state or federal tax audits. Received promotion from Assistant Controller in September 1988.

**SHELBY, RUCKSDASHEL & JONES, CPAs - Auditor (1986 - 1987)**

Audited the financial statements of businesses in the state of Texas, with an emphasis in financial institutions.

**Previous Experience Related to Cost-of-Service, Rate Design, Pricing and Energy-Related Issues**

1. **Nevada Power Company, 2015** (Docket No. 15-07004) – Participating as an expert witness on behalf of the Southern Nevada Hotel Group (“SNHG”)<sup>1</sup> before the Nevada PUC. Sponsoring written and oral testimony in NPC’s 2015 Integrated Resource Plan to provide analysis of the On Line transmission line allocation, the Silverhawk plant acquisition, and the Griffith contract termination.
2. **Oklahoma Gas & Electric Company, 2015 (Docket No. 15-015-U)** – Participating as an expert witness on behalf of the Arkansas River Valley Energy Consumers (“ARVEC”)<sup>2</sup> before the Arkansas Public Service Commission in OG&E’s Act 310 application to implement a rider to recover environmental compliance costs.
3. **MGM Resorts, LLC, 2015** (Docket No. 15-05017) – Participating as an expert witness on behalf of the MGM Resorts, LLC before the Nevada PUC. Sponsoring written and oral testimony in MGM’s application to purchase energy and capacity from a provider other than Nevada Power.
4. **Entergy Arkansas, 2015 (Docket No. 15-015-U)** – Participating as an expert witness on behalf of the Hospital and Higher Education Group (“HHEG”) an intervenor group that includes the University of Arkansas and several hospitals before the Arkansas PSC in Entergy’s general rate case to provide testimony on various revenue requirement issues.
5. **Oklahoma Natural Gas Company, 2015 (Cause No. PUD 201500213)** – Participating as an expert witness on behalf of Oklahoma Industrial Energy Consumers (“OIEC”)<sup>3</sup> before the OCC in ONG’s general rate case application to provide testimony on various revenue requirement and rate design proposals.
6. **Public Service Company of Oklahoma, 2015 (Cause No. PUD 201500208)** – Participating as an expert witness on behalf of OIEC before the OCC in AEP/PSO’s general rate case application to provide testimony on various cost-of-service issues and on the utility’s overall revenue requirement and rate design proposals.
7. **Nevada Power Company, 2014** (Docket No. 14-05003) – Participated as an expert witness on behalf of the Southern Nevada Hotel Group (“SNHG”) before the Nevada PUC. Sponsored written and oral testimony in NPC environmental compliance case, called the Emissions Reduction and Capacity Replacement case. The Commission adopted our recommendation to eliminate the \$438M Moapa solar project from the compliance plan.
8. **Nevada Power Company, 2014** (Docket No. 14-05004) – Participated as an expert witness on behalf of the Southern Nevada Hotel Group before the Nevada PUC to sponsor written and oral testimony in both the revenue requirement phase and the rate design phase of the proceedings to establish prospective cost-of-service based rates for the power company.
9. **Oklahoma Gas and Electric Co., 2014 (Cause No. PUD 201400229)** – Participating as an expert witness on behalf of OIEC in OG&E’s Environmental Compliance and Mustang Modernization Plan before the Oklahoma Corporation Commission to provide testimony addressing the economics and

<sup>1</sup> The Southern Nevada Hotel Group is comprised of Boyd Gaming, Caesars Entertainment, MGM Resorts, Station Casinos, Venetian Casino Resort, and Wynn Las Vegas.

<sup>2</sup> ARVEC is an association of industrial manufacturing facilities in northwest Arkansas.

<sup>3</sup> OIEC is an association of approximately 25 large commercial and industrial customers in Oklahoma.

rate impacts of the plan.

10. **Sourcegas Arkansas, Inc., 2014 (Docket No. 13-079-U)** Participated as an expert witness on behalf of the Hospital and Higher Education Group ("HHEG"), an intervenor group that includes the University of Arkansas and several hospitals before the Arkansas PSC in SGA's general rate case to provide testimony on various revenue requirement issues.
11. **Anchorage Municipal Light and Power, 2014 (Docket No. U-13-184)** – Participating as an expert witness before the Alaska Regulatory Utility Commission on behalf of Providence Health and Services to provide testimony on various revenue requirement and cost of service issues.
12. **Public Service Company of Oklahoma, 2014 (Cause No. PUD 201300217)** – Participating as an expert witness on behalf of OIEC before the OCC in AEP/PSO's general rate case application to provide testimony on various cost-of-service issues and on the utility's overall revenue requirement and rate design proposals.
13. **Entergy Texas Inc., 2013 (PUC Docket No. 41791)** – Participating as an expert witness on behalf of the Cities<sup>4</sup> in ETP's general rate case to provide testimony on various cost of service issues and on the utility's overall revenue requirement.
14. **MidAmerican/NV Energy Merger, 2013 (Docket No. 13-07021)** – Participated as an expert witness on behalf of the Southern Nevada Hotel Group ("SNHG") before the Nevada PUC. Sponsored testimony to address various issues raised in the proposed acquisition of NV Energy by MidAmerican Energy Holdings Company, including capital structure and acquisition premium recovery issues.
15. **Entergy Arkansas, 2013 (Docket No. 13-028-U)** – Participated as an expert witness on behalf of the Hospital and Higher Education Group ("HHEG") an intervenor group that includes the University of Arkansas and several hospitals before the Arkansas PSC in Entergy's general rate case to provide testimony on various revenue requirement issues.
16. **Sierra Pacific Power Company, 2013 (Docket No. 13-06002)** – Participated as an expert witness on behalf of the Northern Nevada Utility Customers<sup>5</sup> before the Nevada PUC in SPPC's general rate case proceeding to provide testimony on various cost of service and revenue requirement issues. Sponsored written and oral testimony in the depreciation phase, the revenue requirement phase and the rate design phase of these proceedings.
17. **Gulf Power Company, 2013 (Docket No. 130140-EI)** – Participated as an expert witness on behalf of the Office of Public Counsel before the Florida Commission in Gulf Power's general rate case proceeding to provide testimony on various revenue requirement issues.
18. **Public Service Company of Oklahoma, 2013 (Cause No. PUD 201200054)** – Participating as an expert witness on behalf of the OIEC before the Oklahoma Corporation Commission ("OCC") to provide testimony in PSO's application seeking Commission approval of its settlement agreement with EPA.
19. **Southwestern Electric Power Company, 2012 (PUC Docket No. 40443)** – Participated as an expert witness on behalf of Cities Advocating Reasonable Deregulation ("CARD Cities") before the Texas

<sup>4</sup> The Cities include Beaumont, Conroe, Groves, Houston, Huntsville, Orange, Navasota, Nederland, Pine Forest, Pinehurst, Port Arthur, Port Neches, Rose City, Shenandoah, Silsbee, Sour Lake, Vidor, and West Orange.

<sup>5</sup> The Northern Nevada Utility Consumers is a group of large commercial and industrial customers in the SPPC service territory.

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Public Utility Commission in SWEPCO's general rate case proceeding to provide testimony on various cost of service issues and on the utility's overall revenue requirement.

20. **Doyon Utilities, 2012 Alaska Rate Case** (Docket No. TA7-717) – Participated as an expert witness consultant on behalf of the Department of Defense to provide expert testimony in twelve rate case reviews for the utility systems of Fort Wainwright, Fort Greely and Joint Base Elmendorf-Richardson before the Regulatory Commission of Alaska.
21. **University of Oklahoma, 2012** – Participated as an expert witness on behalf of the University of Oklahoma to provide expert testimony on various revenue requirement issues in the University's general rate case with the Corix Group, which provides utility services to the University.
22. **Public Service Company of Oklahoma, 2012 (Cause No. PUD 201200079)** – Participated as an expert witness on behalf of the OIEC before the Oklahoma Corporation Commission to provide expert testimony addressing the utility's request to earn additional compensation on a 510MW purchased power agreement with Exelon
23. **Centerpoint Energy Texas Gas, 2012 (Docket No. GUD 10182)** – Participated as an expert witness on behalf of the Steering Committee of Cities before the Texas Railroad Commission to provide expert testimony on various revenue requirement issues.
24. **Entergy Texas Inc., 2012 (PUC Docket No. 39896)** – Participated as an expert witness on behalf of the Cities in ETT's general rate case to provide testimony on various cost of service issues and on the utility's overall revenue requirement.
25. **Oklahoma Natural Gas Company, 2012 (Cause No. PUD 2012-029)** – Participating as an expert witness on behalf of the OIEC before the OCC in ONG's Performance Based Rate ("PBR") application seeking Commission approval of a requested rate increase based upon formula results for 2011.
26. **University of Oklahoma, 2012** – Assisted the University of Oklahoma with an audit of the costs associated with its six utility operations and its contract with the Corix Group to provide utility services to the university.
27. **Oklahoma Gas and Electric Company, 2012 (Cause No. PUD 2011-186)** – Participating as an expert witness on behalf of the OIEC before the OCC in OG&E's application seeking Commission approval of a special contract with Oklahoma State University and a wind energy purchase agreement in connection therewith.
28. **Empire Electric Company, 2011, (Cause No. PUD 11-082)** – Participated as an expert witness on behalf of Enbridge before the OCC in Empire's rate case to provided testimony in both the revenue requirement and rate design phases of the proceedings to establish prospective cost-of-service based rates for the power company.
29. **Nevada Power Company, 2011, (Docket No. 11-04010)** - Participated as an expert witness on behalf of the Southern Nevada Hotel Group ("SNHG") before the Nevada PUC. Sponsored written and oral testimony to address proposed changes to the Company's customer deposit rules.
30. **Nevada Power Company, 2011, (Docket No. 11-06006)** - Participated as an expert witness on behalf of the Southern Nevada Hotel Group before the Nevada PUC. Sponsored written and oral testimony in both the revenue requirement phase and the rate design phase of the proceedings to establish prospective cost-of-service based rates for the power company.

31. **Public Service Company of Oklahoma, 2011 (Cause No. PUD 2011-106)** – Participated as an expert witness on behalf of the OIEC before the OCC in PSO's application seeking rider recovery of third party SPP transmission costs and fees.
32. **Oklahoma Gas and Electric Company, 2011 (Cause No. PUD 2011-087)** – Participating as an expert witness on behalf of OIEC before the OCC in OG&E's rate case to provided testimony in both the revenue requirement and rate design phases of the proceedings to establish prospective cost-of-service based rates for the power company.
33. **Oklahoma Gas & Electric Company, 2011 (Docket No. 10-109-U)** – Participated as an expert witness on behalf of Gerdau Macsteel before the Arkansas Public Service Commission in OG&E's application to recover Smart Grid costs to make recommendations regarding the allocation of the Smart Grid costs.
34. **Oklahoma Gas & Electric Company, 2011 (Cause No. PUD 2011-027)** – Participated as an expert witness on behalf of the OIEC before the OCC in OG&E's application seeking to include retire medical expense in the Company's pension tracker mechanism.
35. **Public Service Company of Oklahoma, 2011 (Cause No. PUD 2010-50)** – Participated as an expert witness on behalf of OIEC before the Oklahoma Corporation Commission in AEP/PSO's application to recover ice storm O&M expenses through a regulatory asset/rider mechanism to address tax impact and return issues in the proposed rider.
36. **Public Service Company of Colorado, 2011 (Docket No. 10AL-908E)** – Participated as an expert witness on behalf of the Colorado Retail Council ("CRC") before the Colorado Public Utilities Commission providing written and live testimony to address PSCo's proposed Environmental Tariff.
37. **Oklahoma Gas & Electric Company, 2011 (Docket No. 10-067-U)** – Participated as an expert witness on behalf of the Northwest Arkansas Industrial Energy Consumers ("NWIEC")<sup>6</sup> before the Arkansas Public Service Commission in OG&E's general rate case application to provide testimony on various revenue requirement, cost of service and rate design issues.
38. **Oklahoma Gas & Electric Company, 2010 (Cause No. PUD 2010-146)** – Participated as an expert witness on behalf of the OIEC before the OCC in OG&E's application seeking rider recovery of third party SPP transmission costs and SPP administration fees.
39. **Massachusetts Electric Co. & Nantucket Electric Co. d/b/a National Grid, 2010 (Docket No. DPU 10-54)** – Participated as an expert witness providing both written and live testimony before the Massachusetts Department of Public Utilities on behalf of the Associated Industries of Massachusetts ("AIM") to address the Company's proposed participation in the 438MW Cape Wind project in Nantucket Sound.
40. **Public Service Company of Oklahoma, 2010 (Cause No. PUD 2010-50)** – Participated as an expert witness on behalf of the OIEC before the OCC in AEP/PSO's general rate case application to provide testimony on various cost-of-service issues and on the utility's overall revenue requirement and rate design proposals.
41. **Texas-New Mexico Power Co., 2010 (Docket 38480)** – Participating as an expert witness on behalf of the Alliance of Texas Municipalities ("ATM") before the Texas PUC in TMNP's general rate case

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<sup>6</sup>NWIEC is an association of industrial manufacturing facilities in northwest Arkansas.



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application to address various revenue requirement and rate design issues to establish prospective cost-of-service based rates.

42. **Southwestern Public Service Co., 2010 (PUCT Docket No. 38147)** – Participating as an expert witness on behalf of the Alliance of Xcel Municipalities (“AXM”) in the SPS general rate case application to provide testimony before the Texas Public Utility Commission regarding rate base and operating expense issues and sponsor the AXM Accounting Exhibits.
43. **Oklahoma Gas & Electric Company, 2010 (Cause No. PUD 2010-37)** – Participating as an expert witness on behalf of OIEC before the OCC to address the preapproval and ratemaking treatment of OG&E’s 220MW self-build wind project.
44. **Oklahoma Gas & Electric Company, 2010 (Cause No. PUD 2010-29)** – Participated as an expert witness on behalf of the OIEC before the OCC in OG&E’s application seeking pre-approval of deployment of smart-grid technology and rider-recovery of the associated costs. Sponsored written testimony to address smart-grid deployment and time-differentiated fuel rates.
45. **Public Service Company of Oklahoma, 2010 (Cause No. PUD 2010-01)** – Participated as an expert witness on behalf of the OIEC before the OCC in the Company’s proposed Green Energy Choice Tariff. Sponsored testimony to address the pricing and ratemaking treatment of the Company’s proposed wind subscription tariff.
46. **Nevada Power Company, 2010 (Docket No. 10-02009)** – Participated as an expert witness on behalf of the Southern Nevada Hotel Group (“SNHG”) before the Nevada PUC to provide testimony in NPC’s Internal Resource Plan to address the ratemaking treatment of the proposed ON Line transmission line.
47. **Entergy Texas Inc., 2010 (PUC Docket No. 37744)** – Participating as an expert witness on behalf of the Cities in ETI’s general rate case to provide testimony on various cost of service issues and on the utility’s overall revenue requirement.
48. **El Paso Electric Company, 2010 (PUC Docket No. 37690)** – Participated as an expert witness on behalf of the City of El Paso in the EPI general rate case to provide testimony on various cost of service issues and on the utility’s overall revenue requirement.
49. **Public Service Company of Oklahoma, 2009 (Cause No. 09-196)** – Participated as an expert witness on behalf of the OIEC before the OCC in PSO’s application for approval of DSM programs and cost recovery. Sponsored testimony to address program costs, lost revenue recovery, cost allocations and incentives.
50. **Oklahoma Gas and Electric Company, 2009 (Cause No. PUD 09-230 and 09-231)** – Participated as an expert witness on behalf of OIEC before the OCC in OG&E’s application to add wind resources from two purchased power contracts. Sponsored written testimony to address the proper ratemaking treatment of the contract costs and the renewable energy certificates.
51. **Oklahoma Gas and Electric Company, 2009 (Cause No. PUD 08-398)** – Participated as an expert witness on behalf of OIEC before the OCC in OG&E’s rate case. Provided testimony in both the revenue requirement and rate design phases of the proceedings to establish prospective cost-of-service based rates for the power company.
52. **Nevada Power Company, 2009, (Docket No. 08-12002)** - Participated as an expert witness on behalf of the Southern Nevada Hotel Group before the Nevada PUC. Sponsored written and oral

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testimony in both the revenue requirement phase and the rate design phase of the proceedings to establish prospective cost-of-service based rates for the power company.

53. **Public Service Company of Oklahoma, 2009 (Cause No. 09-031)** – Participated as an expert witness on behalf of OIEC before the OCC in PSO's application to add wind resources from two purchased power contracts. Sponsored written testimony to address the proper ratemaking treatment of the contract costs and the renewable energy certificates.
54. **Oklahoma Natural Gas Co., 2009 (Cause No. PUD 08-348)** – Participated as an expert witness on witness on behalf of the OIEC before the OCC in ONG's application to establish a Performance Based Rate tariff. Sponsored both written and oral testimony to address the merits of the utility's proposed PBR.
55. **Rocky Mountain Power, 2009 (Docket No. 08-035-38)** – Participated as an expert witness on behalf of the Division of Public Utilities (Staff) in PacifiCorp's general rate case to provide testimony on various revenue requirement issues.
56. **Texas-New Mexico Power Co., 2008 (Docket 36025)** – Participating as an expert witness on behalf of the Alliance of Texas Municipalities ("ATM") before the Texas PUC in TMNP's general rate case application to address various revenue requirement and rate design issues to establish prospective cost-of-service based rates.
57. **Public Service Company of Oklahoma, 2008 (Cause No. 08-144)** – Participated as an expert witness on behalf of the OIEC before the OCC in PSO's general rate case application to address revenue requirement and rate design issues to establish prospective cost-of-service based rates.
58. **Public Service Company of Oklahoma, 2008 (Cause No. 08-150)** – Participated as an expert witness on behalf of the OIEC before the OCC to address PSO's calculation of its Fuel Clause Adjustment for 2008.
59. **Oklahoma Gas and Electric Company, 2008 (Cause No. PUD 08-059)** – Participated as an expert witness on behalf of the OIEC before the OCC in OG&E's application seeking authorization of its Demand Side Management ("DSM") programs and the establishment of a DSM Rider to recover program costs, lost revenues and utility incentives.
60. **Entergy Gulf States, 2008 (PUC Docket No. 34800, SOAH Docket No. 473-08-0334)** – Participated as an expert witness on behalf of the Cities in EGSI's general rate case to provide testimony on various cost of service issues and on the utility's overall revenue requirement.
61. **Public Service Company of Oklahoma, 2008 (Cause No. 07-465)** – Participated as an expert witness on behalf of the OIEC before the OCC in PSO's application to recover the pre-construction costs of the cancelled Red Rock coal generation facility.
62. **Oklahoma Gas and Electric Company, 2008 (Cause No. 07-447)** – Participating as an expert witness on behalf of the OIEC before the OCC in OG&E's application seeking authorization to recover the pre-construction costs of the cancelled Red Rock coal generation facility using proceeds from sales of excess SO<sub>2</sub> allowances.
63. **Rocky Mountain Power, 2008 (Docket No. 07-035-93)** – Participating as an expert witness on behalf of Division of Public Utilities (Staff) in PacifiCorp's general rate case to provide testimony on various revenue requirement issues.

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64. **Public Service Company of Oklahoma, 2008 (Cause No. PUD 07-449)** – Participated as an expert witness on behalf of the OIEC before the OCC in PSO's application seeking authorization of its Demand Side Management ("DSM") programs and the establishment of a DSM Rider to recover program costs, lost revenues and utility incentives.
65. **Public Service Company of Oklahoma, 2008 (Cause No. PUD 07-397)** – Participated as an expert witness on behalf of OIEC before the OCC in PSO's application seeking authorization to defer storm damage costs in a regulatory asset account and to recover the costs using the proceeds from sales of excess SO<sub>2</sub> allowances.
66. **Oklahoma Gas & Electric Co., 2007 (Cause No. PUD 07-012)** – Participated as an expert witness on behalf of OIEC before the OCC in OG&E's application seeking pre-approval to construct the Red Rock coal plant to address the Company's proposed rider recovery mechanism.
67. **Oklahoma Natural Gas Co., 2007 (Cause No. PUD 07-335)** – Participated as an expert witness on behalf of the OIEC before the OCC in ONG's application proposing alternative cost recovery for the Company's ongoing capital expenditures through the proposed Capital Investment Mechanism Rider ("CIM Rider"). Sponsored testimony to address ONG's proposal.
68. **Public Service Company of Oklahoma, 2007 (Cause No. PUD 06-030)** – Participated as an expert witness on behalf of the OIEC before the OCC in PSO's application seeking a used and useful determination for its planned addition of the Red Rock coal plant to address the Company's use of debt equivalency in the competitive bidding process for new resources.
69. **Public Service Company of Oklahoma, 2006 (Cause No. PUD 06-285)** – Participated as an expert witness on behalf of the OIEC before the OCC in PSO's general rate case application to address various revenue requirement and rate design issues to establish prospective cost-of-service based rates.
70. **Nevada Power Company, 2007, (Docket No. 07-01022)** - Participated as an expert witness on behalf of the MGM MIRAGE before the Nevada PUC in Nevada Power Company's deferred energy docket to determine the level of prudent company expenditures for fuel and purchased power.
71. **Nevada Power Company, 2006, (Docket No. 06-11022)** - Participated as an expert witness on behalf of the MGM MIRAGE properties before the Nevada PUC. Sponsored written and oral testimony in both the revenue requirement phase and the rate design phase of the proceedings to establish prospective cost-of-service based rates for the power company.
72. **Southwestern Public Service Co., 2006 (PUCT Docket No. 37766)** – Participated as an expert witness on behalf of the Alliance of Xcel Municipalities ("AXM") in the SPS general rate case application. Provided testimony before the Texas Public Utility Commission regarding rate base and operating expense issues and sponsored the Accounting Exhibits on behalf of AXM.
73. **Atmos Energy Corp., Mid-Tex Division, 2006 (Texas GUD 9676)** – Participated as an expert witness in the Atmos Mid-Tex general rate case application on behalf of the Atmos Texas Municipalities ("ATM"). Provided written and oral testimony before the Railroad Commission of Texas regarding the revenue requirements of Mid-Tex including various rate base, operating expense, depreciation and tax issues. Sponsored the Accounting Exhibits for ATM.
74. **Nevada Power Company, 2006 (Docket No. 06-06007)** – Participated as an expert witness on behalf of the MGM MIRAGE in the Sinatra Substation Electric Line Extension and Service Contract case. Provided both written and oral testimony before the Nevada Public Utility Commission to

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provide the Commission with information as to why the application is consistent with the line extension requirements of Rule 9 and why the cost recovery proposals set forth in the application provide a least cost approach to adding necessary new capacity in the Las Vegas strip area.

75. **Public Service Co. of Oklahoma, 2006 (Cause No. PUD 05-00516)** - Participated as an expert witness on behalf of the OIEC to review PSO's application for a "used and useful" determination of its proposed peaking facility.
76. **Oklahoma Gas and Electric Co., 2006 (Cause No. PUD 06-00041)** - Participated as an expert witness on behalf of the OIEC in OG&E's application to propose an incentive sharing mechanism for SO<sub>2</sub> allowance proceeds.
77. **Chermac Energy Corporation, 2006 (Cause No. PUD 05-00059 and 05-00177)** - Participated as an expert witness on behalf of the OIEC in Chermac's PURPA application. Sponsored written responsive and rebuttal testimony to address various rate design issues arising under the application.
78. **Oklahoma Gas and Electric Co., 2006 (Cause No. PUD 05-00140)** - Participated as an expert witness on behalf of the OIEC in OG&E's 2003 and 2004 Fuel Clause reviews. Sponsored written testimony to address the purchasing practices of the Company, its transactions with affiliates, and the prices paid for natural gas, coal and purchased power.
79. **Nevada Power Company, 2006, (Docket No. 06-01016)** - Participated as an expert witness on behalf of the MGM MIRAGE properties before the Nevada PUC. Sponsored written testimony in NPC's deferred energy docket to determine the level of prudent company expenditures for fuel and purchased power.
80. **Oklahoma Gas and Electric Co., 2005 (Cause No. PUD 05-151)** - Participated as an expert witness on behalf of the OIEC in OG&E's general rate case application. Sponsored both written and oral testimony before the OCC to address various revenue requirement and rate design issues for the purpose of setting prospective cost-of-service based rates.
81. **Oklahoma Natural Gas Co., 2005 (Cause No. PUD 04-610)** - Participated as an expert witness on behalf of the Attorney General of Oklahoma. Sponsored written and oral testimony to address numerous rate base, operating expense and depreciation issues for the purpose of setting prospective cost-of-service based rates.
82. **CenterPoint Energy Arkla, 2004 (Cause No. PUD 04-0187)** - Participating as an expert witness on behalf of the Attorney General of Oklahoma. Sponsored written testimony to provide the OCC with analysis from an accounting and ratemaking perspective of the Co.'s proposed change in depreciation rates from an Average Life Group to an Equal Life Group methodology. Addressed the Co.'s proposed increase in depreciation rates associated with increased negative salvage value calculations.
83. **Public Service Co. of Oklahoma, 2004 (Cause No. PUD 02-0754)** - Participated as an expert witness on behalf of the OIEC. Sponsored written testimony (1) making adjustments to PSO's requested recovery of an ICR programming error, (2) correcting errors in the allocation of trading margins on off-system sales of electricity from AEP East to West and among the AEP West utilities and (3) recommending an annual rather than a quarterly change in the FAC rates.
84. **PowerSmith Cogeneration Project, 2004 (Cause No. PUD 03-0564)** - Participated as an expert witness on behalf of the OIEC to provide the OCC with direction in setting an avoided cost for the PowerSmith Cogeneration project under PURPA requirements. Provided both written and oral testimony on the provisions of the proposed contract under PURPA:

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85. **Electric Utility Rules for Affiliate Transactions, 2004 (Cause No. RM 03-0003)** – Participated as a consultant on behalf of the OIEC to draft comments to assist the OCC in developing rules for affiliate transactions. Assisted in drafting the proposed rules. Successful in having the Lower of Cost or Market rule adopted for affiliate transactions in Oklahoma.
86. **Nevada Power Company, 2003, (Docket No. 03-10001)** - Participated as an expert witness on behalf of the MGM MIRAGE properties before the Nevada PUC. Sponsored written and oral testimony in both the revenue requirement phase and the rate design phase of the proceedings to establish prospective cost-of-service based rates for the power company.
87. **Nevada Power Company, 2003, (Docket No. 03-11019)** - Participated as an expert witness on behalf of the MGM MIRAGE before the Nevada PUC in Nevada Power Company's deferred energy docket to determine the level of prudent company expenditures for fuel and purchased power.
88. **Public Service Company of Oklahoma, 2003 (Cause No. PUD 03-0076)** – Participating as an expert witness on behalf of the OIEC before the OCC in PSO's general rate case application to address various revenue requirement and rate design issues to establish prospective cost-of-service based rates.
89. **Oklahoma Gas & Electric Co., 2003 (Cause No. PUD 03-0226)** – Participated as an expert witness on behalf of the OIEC. Provided both written and oral testimony before the OCC to determine the appropriate level to include in rates for natural gas transportation and storage services acquired from an affiliated company.
90. **Nevada Power Company, 2003 (Docket No. 02-5003-5007)** - Participated as an expert witness on behalf of the MGM Mirage before the Nevada PUC. Sponsored written and oral testimony to calculate the appropriate exit fee in MGM Mirage's 661 Application to leave the system.
91. **McCarthy Family Farms, 2003** -- Participated as a consultant to assist McCarthy Family Farms in converting a biomass and biosolids composting process into a renewable energy power producing business in California.
92. **Bice v. Petro Hunt, 2003 (ND, Supreme Court No. 20030306)** - Participated as an expert witness in a class certification proceeding to provide cost-of-service calculations for royalty valuation deductions for natural gas gathering, dehydration, compression, treatment and processing fees in North Dakota.
93. **Nevada Power Company, 2003 (Docket No. 03-11019)** - Participated as a consulting expert on behalf of the MGM Mirage before the Nevada PUC in Nevada Power Company's deferred energy docket to determine the level of prudent company expenditures for fuel and purchased power. Provided written and oral testimony on the reasonableness of the cost allocations to the utility's various customer classes.
94. **Wind River Reservation, 2003 (Fed. Claims Ct. No. 458-79L, 459-79L)** – Participated as a consulting expert on behalf of the Shoshone and Arapaho Tribes to provide cost-of-service calculations for royalty valuation deductions for gathering, dehydration, treatment and compression of natural gas and the reasonableness of deductions for gas transportation.
95. **Oklahoma Gas & Electric Co., 2002 (Cause No. PUD 01-0455)** – Participated as an expert witness on behalf of the OIEC before the OCC. Sponsored written and oral testimony on numerous revenue requirement issues including rate base, operating expense and rate design issues to establish

prospective cost-of-service based rates.

96. **Nevada Power Company, 2002 (Docket No. 02-11021)** - Participated as an expert witness on behalf of the MGM Mirage before the Nevada PUC in Nevada Power Company's deferred energy docket to determine the level of prudent company expenditures for fuel and purchased power and to make recommendations with respect to rate design.
97. **Nevada Power Company, 2002 (Docket No. 01-11029)** - Participated as a consulting expert on behalf of the MGM Mirage before the Nevada PUC in Nevada Power Company's deferred energy docket to determine the level of prudent company expenditures for fuel and purchased power included in the Company's \$928 million deferred energy balances.
98. **Nevada Power Company, 2002 (Docket No. 01-10001)** - Participated as an expert witness on behalf of the MGM Mirage before the Nevada PUC. Sponsored written and oral testimony in both the revenue requirement phase and the rate design phase of the proceedings to establish prospective cost-of-service based rates for the power company.
99. **Chesapeake v. Kinder Morgan, 2001 (CIV-00-397L)** - Participated as an expert witness on behalf of Chesapeake Energy in a gas gathering dispute. Sponsored testimony to calculate and support a reasonable rate on the gas gathering system. Performed necessary calculations to determine appropriate levels of operating expense, depreciation and cost of capital to include in a reasonable gathering charge and developed an appropriate rate design to recover these costs.
100. **Southern Union Gas Company, 2001** - Participated as a consultant to the City of El Paso in its review of SUG's gas purchasing practices, gas storage position, and potential use of financial hedging instruments and ratemaking incentives to devise strategies to help shelter customers from the risk of high commodity price spikes during the winter months.
101. **Nevada Power Company, 2001** - Participated as an expert witness on behalf of the MGM-Mirage, Park Place and Mandalay Bay Group before the Nevada Public Utility Commission to review NPC's Comprehensive Energy Plan (CEP) for the State of Nevada and make recommendations regarding the appropriate level of additional costs to include in rates for the Company's prospective power costs associated with natural gas and gas transportation, coal and coal transportation and purchased power.
102. **Bridenstine v. Kaiser-Francis Oil Co. et al., 2001 (CJ-95-54)** - Participated as an expert witness on behalf of royalty owner plaintiffs in a valuation dispute regarding gathering, dehydration, metering, compression, and marketing costs. Provided cost-of-service calculations to determine the reasonableness of the gathering rate charged to the royalty interest. Also provided calculations as to the average price available in the field based upon a study of royalty payments received on other wells in the area.
103. **Klatt v. Hunt et al., 2000 (ND)** - Participated as an expert witness and filed report in United States District Court for the District of North Dakota in a natural gas gathering contract dispute to calculate charges and allocations for processing, sour gas compression, treatment, overhead, depreciation expense, use of residue gas, purchase price allocations, and risk capital.
104. **Oklahoma Gas and Electric Co., 2000 (Cause No. PUD 00-0020)** - Participated as an expert witness on behalf of the OIEC before the OCC. Sponsored testimony on OG&E's proposed Generation Efficiency Performance Rider (GEPR). Provided a list of criteria with which to measure a utility's proposal for alternative ratemaking. Recommended modifications to the Company's proposed GEPR to bring it within the boundaries of an acceptable alternative ratemaking formula.

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105. **Oklahoma Gas and Electric Co., 1999** - Participated as an expert witness on behalf of the OIEC before the OCC. Sponsored testimony on OG&E's proposed Performance Based Ratemaking (PBR) proposal including analysis of the Company's regulated return on equity, fluctuations in the capital investment and operating expense accounts of the Company and the impact that various rate base, operating expense and cost of capital adjustments would have on the Company's proposal.
106. **Nevada Power Company, 1999 (Docket No. 99-7035)** - Participated as an expert witness on behalf of the Mirage, Park Place and Mandalay Bay Group before the Nevada PUC. Sponsored written and oral testimony addressing the appropriate ratemaking treatment of the Company's deferred energy balances, prospective power costs for natural gas, coal and purchased power and deferred capacity payments for purchased power.
107. **Nevada Power Company, 1999 (Docket No. 99-4005)** - Participated as an expert witness on behalf of the Mirage, Park Place and Mandalay Bay Group before the Nevada PUC. Sponsored written and oral testimony to unbundle the utility services of the NPC and to establish the appropriate cost-of-service allocations and rate design for the utility in Nevada's new competitive electric utility industry.
108. **Nevada Power Company, 1999 (Docket No. 99-4005)** - Participated as an expert witness on behalf of the Mirage, Park Place and Mandalay Bay Group before the Nevada PUC. Sponsored written and oral testimony to establish the cost-of-service revenue requirement of the Company.
109. **Nevada Power/Sierra Pacific Merger, 1998 (Docket No. 98-7023)** - Participated as an expert witness on behalf of the Mirage and MGM Grand before the Nevada PUC. Sponsored written and oral testimony to establish (1) appropriate conditions on the merger (2) the proper sequence of regulatory events to unbundle utility services and deregulate the electric utility industry in Nevada (3) the proper accounting treatment of the acquisition premium and the gain on divestiture of generation assets. The recommendations regarding conditions on the merger, the sequence of regulatory events to unbundle and deregulate, and the accounting treatment of the acquisition premium were specifically adopted in the Commission's final order.
110. **Oklahoma Natural Gas Company, 1998 (Cause No. PUD 98-0177)** - Participated as an expert witness in ONG's unbundling proceedings before the OCC. Sponsored written and oral testimony on behalf of Transok, LLC to establish the cost of ONG's unbundled upstream gas services. Substantially all of the cost-of-service recommendations to unbundle ONG's gas services were adopted in the Commission's interim order.
111. **Public Service Company of Oklahoma, 1997 (Cause No. PUD 96-0214)** - Audited both rate base investment and operating revenue and expense to determine the Company's revenue requirement and cost-of-service. Sponsored written testimony before the OCC on behalf of the OIEC.
112. **Oklahoma Natural Gas /Western Resources Merger, 1997 (Cause No. PUD 97-0106)** - Sponsored testimony on behalf of the OIEC regarding the appropriate accounting treatment of acquisition premiums resulting from the purchase of regulated assets.
113. **Oklahoma Gas and Electric Co., 1996 (Cause No. PUD 96-0116)** - Audited both rate base investment and operating income. Sponsored testimony on behalf of the OIEC for the purpose of determining the Company's revenue requirement and cost-of-service allocations.
114. **Oklahoma Corporation Commission, 1996** - Provided technical assistance to Commissioner Anthony's office in analyzing gas contracts and related legal proceedings involving ONG and certain of its gas supply contracts. Assignment included comparison of pricing terms of subject gas contracts to portfolio of gas contracts and other data obtained through annual fuel audits analyzing ONG's gas

purchasing practices.

115. **Tenkiller Water Company, 1996** - Provided technical assistance to the Attorney General of Oklahoma in his review of the Company's regulated cost-of-service for the purpose of setting prospective utility rates.
116. **Arkansas Oklahoma Gas Company, 1995 (Cause No. PUD 95-0134)** - Sponsored written and oral testimony before the OCC on behalf of the Attorney General of Oklahoma regarding the price of natural gas on AOG's system and the impact of AOG's proposed cost of gas allocations and gas transportation rates and tariffs on AOG's various customer classes.
117. **Enogex, Inc., 1995 (FERC 95-10-000)** - Analyzed Enogex's application before the FERC to increase gas transportation rates for the Oklahoma Independent Petroleum Association and made recommendations regarding revenue requirement, cost-of-service and rate design on behalf of independent producers and shippers.
118. **Oklahoma Natural Gas Company, 1995 (Cause No. PUD 94-0477)** - Analyzed a portfolio of ONG's gas purchase contracts in the Company's Payment-In-Kind (PIC) gas purchase program and made recommendations to the OCC Staff on behalf of Terra Nitrogen, Inc. regarding the inappropriate profits made by ONG on the sale of the gas commodity through the PIC program pricing formula. Also analyzed the price of gas on ONG's system, ONG's cost-of-service based rates, and certain class cross-subsidizations in ONG's existing rate design.
119. **Arkansas Louisiana Gas Company, 1994 (Cause No. PUD 94-0354)** - Planned and supervised the rate case audit for the OCC Staff and reviewed the workpapers and testimony of the other auditors on the case. Sponsored cost-of-service testimony on cash working capital and developed policy recommendations on post test year adjustments.
120. **Empire District Electric Company, 1994 (Cause No. PUD 94-0343)** - Planned and supervised the rate case audit for the OCC Staff and reviewed the workpapers and testimony of other auditors. Sponsored cost-of-service testimony on rate base investment areas including cash working capital.
121. **Oklahoma Natural Gas Company, 1992 through 1993 (Cause No. PUD 92-1190)** - Planned and supervised the rate case audit of ONG for the OCC Staff. Reviewed all workpapers and testimony of the other auditors on the case. Sponsored written and oral testimony on numerous cost-of-service adjustments. Analyzed ONG's gas supply contracts under the Company's PIC program.
122. **Oklahoma Gas and Electric Company, 1991 through 1992 (Cause No. PUD 91-1055)** - Audited the rate base, operating revenue and operating expense accounts of OG&E on behalf of the OCC Staff. Sponsored written and oral testimony on numerous revenue requirement adjustments to establish the appropriate level of costs to include for the purpose of setting prospective rates.



## Exhibit MG-2

**OG&E'S RESPONSE TO STAFF'S DATA REQUEST KJC-1-1 ATT. 2**

*PUD 201500274 Data Request KJC-1 (1-1)*

**Net Energy Billing Option (NEBO) Customer Impact Analysis**

**Commercial NEBO Customers (bill amount excluding riders other than FCA)**

|                               | Under<br><u>Current Tariff</u> | Under<br><u>Proposed Tariff</u> | <u>Change</u> |      |
|-------------------------------|--------------------------------|---------------------------------|---------------|------|
|                               |                                |                                 | \$            | %    |
| Monthly Impact - Average Bill | \$ 273.87                      | \$ 298.58                       | \$ 24.72      | 9.0% |

**Residential NEBO Customers (bill amount excluding riders other than FCA)**

|                               | Under<br><u>Current Tariff</u> | Under<br><u>Proposed Tariff</u> | <u>Change</u> |       |
|-------------------------------|--------------------------------|---------------------------------|---------------|-------|
|                               |                                |                                 | \$            | %     |
| Monthly Impact - Average Bill | \$ 86.92                       | \$ 106.80                       | \$ 19.87      | 22.9% |