

FILED
DEC 07 2007

**BEFORE THE
CORPORATION COMMISSION OF THE STATE OF OKLAHOMA**

COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

IN THE MATTER OF THE APPLICATION)
OF **OKLAHOMA GAS AND ELECTRIC**)
COMPANY FOR AN ORDER OF THE)
COMMISSION GRANTING RECOVERY OF)
THE COSTS ASSOCIATED WITH THE)
CANCELLATION OF THE RED ROCK)
GENERATING FACILITY)

CAUSE NO. PUD 200 700447

APPLICATION

COMES NOW Oklahoma Gas and Electric Company ("OG&E", "Company" or "Applicant") and shows to the Commission as follows:

1. Parties.

A. OG&E is an investor owned electric public utility with plant, property and other assets dedicated to and for the production, transmission, distribution and sale of electric power and energy to wholesale and retail customers within the states of Oklahoma and Arkansas. The Company is incorporated within the State of Oklahoma and is subject to the regulatory jurisdiction of this Commission. Applicant's principal place of business is located at 321 North Harvey, Oklahoma City, Oklahoma 73102. OG&E is represented in these proceedings by William J. Bullard, OBA #1302 and Patrick D. Shore, OBA #8205, Oklahoma Gas and Electric Company, P.O. Box 321, Oklahoma City, Oklahoma 73101 and Dustin R. Fredrick, OBA #19095, Rainey, Ross, Rice & Binns, P.L.L.C., 735 First National Center West, Oklahoma City, Oklahoma 73102.

B. Other parties that may have an interest in this proceeding include the parties of record in Cause No. PUD 200700012¹ (“Red Rock Pre-Approval Application”) as follows:

- (1) Public Utility Division, Oklahoma Corporation Commission
- (2) Office of the Attorney General for the State of Oklahoma
- (3) Oklahoma Industrial Energy Consumers
- (4) Public Service Company of Oklahoma
- (5) Quality of Service Coalition
- (6) Redbud Energy, LP
- (7) Wal-Mart Stores East, LP
- (8) OG&E Shareholders Association
- (9) AES Shady Point, LLC and AES Pacific, LLC

2. **Facts.**

A. OG&E is a retail electric supplier and an electric public utility with the exclusive right as well as the obligation to serve electric consuming facilities within its certified territory.² OG&E is obligated by the Rules of this Commission to provide a reliable supply of electric power and energy to those electric consuming facilities constituting the Company’s Oklahoma retail customers.³ The Rules of the Commission require electric utilities to develop and submit to the Commission and to public comment, integrated resource plans to establish bases for substantial investment and expenses incurred by utilities to provide electric supply to retail customers.⁴

B. OG&E began to consider a base load capacity addition early in 2005. OG&E’s resource planning studies consistently indicated that OG&E would need additional base load capacity in the 2011-2012 timeframe. Subsequent analyses taking cost, risk and other factors into account led OG&E to conclude that a base load coal-fired plant was the best option for

¹ IN THE MATTER OF THE APPLICATION OF OKLAHOMA GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE COMMISSION GRANTING PRE-APPROVAL TO CONSTRUCT RED ROCK GENERATING FACILITY AND AUTHORIZING A RECOVERY RIDER

² 17 O.S. §§ 158.21 *et seq.*

³ OAC 165:35-25-3(d).

⁴ OAC 165:35-37-1, *et seq.*

customers. On January 2, 2007, the Company submitted its final Integrated Resource Plan (“IRP”) to the Commission. The IRP demonstrated that a 400 MW base load resource would be the optimal means of meeting its customers’ requirements for electricity beginning in the 2011 to 2012 timeframe and the IRP established that the lowest reasonable cost option to meet that need would be the construction of a coal fired generating facility.

C. During the fall of 2005, Public Service Company of Oklahoma (“PSO”), a subsidiary of American Electric Power Company, announced a need for 400 to 600 MW of additional base load generation capability beginning in June 2011 and issued a Request for Proposals (“RFP”) to supply power supply resources to satisfy its customers’ needs.

D. OG&E concluded that significant savings resulting from economies of scale could be achieved by constructing a base load generating facility with adequate capacity to satisfy the electric service requirements of both PSO and OG&E through the construction of a single generating facility located in proximity to the service areas of both PSO and the Company. OG&E further determined that the joint construction of a coal-fired generating facility located adjacent to the Company’s Sooner Generating Station would benefit the customers of both utilities.

E. In early 2006, OG&E submitted a bid in response to a Request for Proposal issued by PSO to construct a jointly owned, coal fired, base load generating facility (“Red Rock Generating Facility”) sized to meet the combined need for new base load generating requirements of the customers of PSO and OG&E. OG&E’s bid was selected as the winning bid and between July 2006 and January 2007, PSO and OG&E negotiated a Construction, Ownership and Operating Agreement (“COO”). The COO designated OG&E as the Construction and Operations Manager for the joint owners, PSO (50%), OG&E (42%) and the

Oklahoma Municipal Power Authority (“OMPA”) (8%).

F. On January 17, 2007, OG&E filed its Red Rock Pre-Approval Application pursuant to 17 O. S. § 286(C) for pre-approval to construct the Red Rock Generating Facility. OG&E filed testimony in support of the Red Rock Pre-Approval Application advising the Commission that in order to meet the in-service date, it would be necessary for OG&E to commit approximately \$25 million, and that these funds would be subject to cancellation fees if the Commission did not grant pre-approval of the Red Rock Generating Facility.

G. During the proceedings in connection with the Red Rock Pre-Approval Application, the Commission issued Order Nos. 535900 and 545066, authorizing and requiring OG&E to pay for consulting services obtained by the Public Utility Division of the Oklahoma Corporation Commission (“Staff”) pursuant to 17 O.S. § 286(C)(2). The fees for Staff’s consulting services in connection with the Red Rock Pre-Approval Application totaled \$51,289, as established by Order No 545066. In addition, the Commission issued Order No. 535898 authorizing and requiring OG&E to pay for consulting services obtained by the Office of the Attorney General for the State of Oklahoma (“AG”) pursuant to 17 O.S. § 286(C)(3). The AG incurred fees for consulting services in connection with the Red Rock Pre-Approval Application in the total amount of \$253,225. OG&E represents to the Commission that it has paid the fees for consulting services incurred by both Staff and the AG and OG&E is entitled to recover these costs.

H. OG&E is requesting the recovery of certain incremental costs in this proceeding. During the time period of July 2006 through October 2007, OG&E incurred costs and expenses directly attributable to the Red Rock Generating Facility. The expenditures incurred during the period July 2006 through October 2007 including those of the joint owners total \$38,564,356.

The major components of this amount include outside legal services in negotiating the COO and Engineering, Procurement and Construction Agreement (“EPC”), outside consultants including Sargent & Lundy, out-of-pocket expenses, filing fees at the Oklahoma Department of Environmental Quality to obtain an air permit and at the Southwest Power Pool for the transmission service request for the Red Rock Generating Facility, costs paid to Red Rock Power Constructors under the Letter of Intent which includes cancellation costs paid for cancellation of the steam turbine generator, boiler and air quality control system.

I. On October 11, 2007, the Commission issued Order No. 545240 determining that OG&E’s “request for an order granting pre-approval of the Red Rock Generating Facility and authorizing a recovery rider is DENIED.” (Emphasis in original)⁵. Therefore, OG&E, as Construction and Operations Manager, took immediate steps to cancel the project.

J. The amount the Company is requesting in this proceeding represents certain incremental costs, not currently being recovered in OG&E’s rates. Examples of costs not requested are expenditures during the bid process and most internal costs during the negotiation of the COO and the subsequent negotiation with the construction contractor. OG&E’s total expenditures regarding the Red Rock Generating Facility were \$17,064,531. OG&E’s total Oklahoma jurisdiction costs related to the Red Rock Generating Facility were \$14,430,007 exclusive of the fees and costs paid by OG&E for the consultants retained by Staff and the AG. Including these fees and costs, OG&E’s total Oklahoma jurisdiction costs related to the Red Rock Generating Facility were \$14,734,521. OG&E is requesting the Commission to authorize the accrual of a regulatory asset consisting of these extraordinary costs.

K. On June 26, 2006, the Commission issued Order No. 526426 in Cause No. PUD

⁵ Id.

200600041⁶ in which the Commission determined “that ninety percent (90%) of the Oklahoma retail jurisdictional proceeds from SO₂ allowance sales shall pass directly to OG&E’s customers while OG&E shall retain the remaining ten percent (10%) of the proceeds.”⁷ OG&E is requesting to suspend the 90/10 sharing and apply 100% of the proceeds from SO₂ allowance sales as a reduction to the requested regulatory asset until these extraordinary costs are recovered in full. Once OG&E has fully recovered these extraordinary costs, the Company will return to the 90/10 sharing mechanism currently authorized by the Commission.

L. In support of this Application, OG&E submits to the Commission the following Direct Testimony:

(1) Howard W. Motley is OG&E’s Vice President, Regulatory Affairs.

Mr. Motley will explain the relief sought in this Application, why it is appropriate to grant that relief and discuss the Commission’s authority to grant the relief, explain how the recovery of these extraordinary costs is consistent with the objective of rate regulation, provide examples of extraordinary cost recovery granted by this Commission and also discuss how OG&E’s recovery of these extraordinary costs will send a positive signal to the financial community.

(2) John Wendling is OG&E’s Vice President, Power Supply. Mr.

Wendling will describe the basis for the Red Rock engineering and technical expenditures the Company is seeking to recover.

(3) Scott Forbes is OG&E’s Controller and Chief Accounting Officer.

Mr. Forbes will summarize and quantify the Oklahoma portion of these

⁶ APPLICATION OF JOYCE E. DAVIDSON, DIRECTOR OF THE PUBLIC UTILITY DIVISION, OKLAHOMA CORPORATION COMMISSION, OKLAHOMA GAS AND ELECTRIC COMPANY AND AES SHADY POINT, INC. FOR AN ORDER APPROVING THE IMPLEMENTATION OF A CLEAN AIR ACT ALLOWANCE CREDIT RIDER, filed February 10, 2006.

⁷ Order No. 526426 at page 6.

expenditures, address the proposed method of recovery through the sale of SO₂ allowances and also discuss the financial impact on the Company's earnings.

3. Legal Authority.

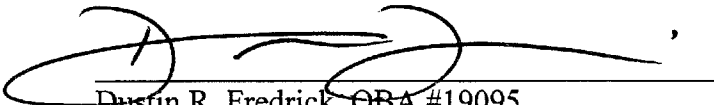
The Commission has jurisdiction to grant the relief requested herein by virtue of Article IX, Section 18 *et seq.* of the Constitution of the State of Oklahoma, 17 O.S. §151 *et seq.* (specifically 17 O.S. § 286(C)(2) and 17 O.S. § 286(C)(3)), the Commission's Rules of Practice (OAC 165:5), the Commission's Electric Utility Rules (OAC 165:35), all relevant case law, and the United States Constitution.

4. Relief Sought.

WHEREFORE, premises considered, OG&E requests that after appropriate notice and hearing the Commission issue an Order authorizing (1) OG&E to accrue a regulatory asset in the amount of \$14,734,521 representing the Oklahoma jurisdictional portion of its prudently expended, extraordinary costs associated with the Red Rock Generating Facility, (2) the suspension of the 90/10 sharing mechanism set forth in Commission Order No. 526426 so that OG&E may apply 100% of the proceeds from SO₂ allowance sales as a reduction to this regulatory asset until these extraordinary costs are recovered in full and (3) such other relief as the Commission deems appropriate.

Respectfully submitted,

OKLAHOMA GAS AND ELECTRIC COMPANY



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CERTIFICATE OF MAILING

I hereby certify that on the 7th day of December, 2007, a true and correct copy of the foregoing instrument was placed in the U.S. Mail, postage prepaid, addressed to the following:

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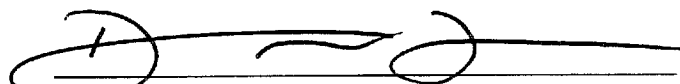
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