

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

**APPLICATION OF PUBLIC)
SERVICE COMPANY OF OKLAHOMA FOR)
A DETERMINATION THAT) CAUSE NO. PUD 2005-00516
ADDITIONAL ELECTRIC GENERATING)
CAPACITY WILL BE USED AND USEFUL)**

**APPLICATION OF PUBLIC)
SERVICE COMPANY OF OKLAHOMA)
FOR A DETERMINATION THAT)
ADDITIONAL BASELOAD ELECTRIC)
GENERATING CAPACITY WILL BE)
USED AND USEFUL) CAUSE NO. PUD 2006-00030**

**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) CAUSE NO. PUD 200700012
GENERATING FACILITY AND)
AUTHORIZING A RECOVERY RIDER)**

TESTIMONY OF

MARK E. GARRETT

ON BEHALF OF

OKLAHOMA INDUSTRIAL ENERGY CONSUMERS (OIEC)

IN RESPONSE TO THE DIRECT TESTIMONY OF OG&E

MAY 21, 2007

**Responsive Testimony of Mark E. Garrett
May 21, 2007
OG&E Cost Recovery Issues**

TABLE OF CONTENTS

I. Witness Identification and Purpose of Testimony 3

II. Red Rock Construction Rider 4

III. Appropriate Recovery Approach 26

IV. Summary of Recommendations and Conclusion 28

Exhibits.....Attached

I. WITNESS IDENTIFICATION AND PURPOSE OF TESTIMONY

1 **Q: PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A: My name is Mark Garrett. My business address is Two Leadership Square, Suite 340,
3 211 North Robinson, Oklahoma City, Oklahoma 73102.

4

5 **Q: WHAT IS YOUR PRESENT OCCUPATION?**

6 A: I am the President of Garrett Group, LLC, a firm specializing in public utility regulation,
7 litigation and consulting services.

8

9 **Q: HAVE YOU PREVIOUSLY TESTIFIED BEFORE THIS COMMISSION AND**
10 **HAVE YOUR QUALIFICATIONS BEEN ACCEPTED?**

11 A: Yes. A description of my qualifications and a list of the proceedings in which I have
12 been involved are included with this testimony.

13

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

15 A: I am appearing on behalf of the Oklahoma Industrial Energy Consumers (OIEC).

16

17 **Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY FILED TODAY?**

A: The purpose of this testimony is to address OG&E's proposed alternative form of cost recovery for the Red Rock base load project, the Red Rock Construction Rider ("RRCR").

II. RED ROCK CONSTRUCTION RIDER

1 **Q: PLEASE DESCRIBE OG&E'S PROPOSED RED ROCK CONSTRUCTION**
2 **RIDER.**

3 A: A detailed description of the rider is included in Mr. Walkingstick's testimony.
4 Justification and support for the proposed rider, however, is included in the testimonies
5 of Mr. Frank C. Graves and Mr. Howard Motley. In general, the proposed RRCR rider
6 would allow OG&E to recover the financing cost of the proposed \$789 million Red
7 Rock project during the construction of the project. This approach differs from the
8 traditional approach where construction financing costs are accumulated through
9 AFUDC¹ accruals and added to the total project costs included in rate base when the
10 project is placed in service. According to Mr. Motley, the RRCR will recover a full rate
11 base return, grossed-up for income tax, on the construction expenditures for the Red
12 Rock plant as these costs are incurred.² Both Mr. Motley and Mr. Graves contend that
13 the RRCR will minimize customer impacts at the end of the 6-year construction cycle,
14 i.e. reduce rate shock, and will improve OG&E's "quality of earnings" over the same
15 period. As it turns out, the only real financial benefit to ratepayers mentioned by either
16 witness would be the potential avoidance of higher financing costs that could occur if the
17 deferred recoveries under the AFUDC approach contributed to downgrades in the
18 Company's debt ratings. However, as discussed in more detail in the testimony of Mr.
19 Woolridge, the evidence provided by the Company does not indicate that such a
20 downgrade would occur under the AFUDC approach. As such, the one claimed benefit

¹ Allowance for Funds Used During Construction.

1 for ratepayers appears to be an illusory benefit at best, given the current financial
2 condition of the utility.

3
4 **Q: WHY IS OG&E REQUESTING AN ALTERNATIVE APPROACH FOR**
5 **RECOVERING THE RED ROCK CONSTRUCTION COSTS?**

6 A: At page 3 of his direct testimony, Mr. Graves sets forth the Company's justification for
7 the new proposed approach. He states that OG&E is entering a period of much greater
8 capital expenditure than the Company has experienced in recent years. These
9 infrastructure improvement costs are expected to exceed the cash flows received through
10 depreciation expense and net operation income, and will be financed in part through
11 funds raised in the capital markets. The Company claims that the use of the
12 Construction Rider will reduce OG&E's dependence on external funds and will better
13 support OG&E's ability to maintain its current investment-grade financial condition.³

14
15 **Q: WHAT ARE MR. GRAVES' CONCLUSIONS WITH RESPECT TO THE**
16 **PROPOSED RIDER?**

17 A: Mr. Graves states that he finds the proposal "to be reasonable, likely to enhance OG&E's
18 financial condition, and not burdensome to ratepayers." He further finds that the use of a
19 construction rider "can provide important customer benefits over the long term."⁴

20
21 **Q: DO YOU AGREE WITH THESE CONCLUSIONS?**

² Howard Motley direct testimony page 7.

³ Graves direct testimony page 3.

1 A: I agree that the Construction Rider is likely to enhance OG&E’s financial condition,
2 since the rider will simultaneously increase cash flows and reduce risk. When compared
3 with other utilities, investors will perceive OG&E as a uniquely positioned utility with
4 lower risk, enhanced cash flows and the promise of a significantly higher rate base at the
5 end of the construction period. Other things being equal, these perceptions should
6 translate into a willingness on the part of investors to pay a higher price for the Company
7 stock.

8
9 **Q: DO YOU AGREE THAT RATEPAYERS WILL BENEFIT AS A RESULT OF**
10 **THE PROPOSED RIDER?**

11 A: No. The only potential benefit to ratepayers from such a rider would be the avoidance of
12 higher financing costs in the future in the unlikely event the utility would fall below
13 investment-grade as a result of not having the rider. Since the likelihood of OG&E
14 falling below investment-grade as a result of the Red Rock project is unsupported, this
15 claimed benefit cannot be considered a real benefit to ratepayers at this time.⁵
16 Furthermore, if OG&E is truly incapable of financing the Red Rock project – in other
17 words, if the cost of the project would cause OG&E to fall below investment grade –
18 OG&E probably should not have participated as a bidder in the PSO request for proposal
19 for base-load capacity (“RFP”), offering to build a plant it could not afford to build
20 without ratepayer help. Instead, in that situation, the utility would want to consider
21 letting another company, one that was capable of handing the financing costs, build the

4 Graves direct testimony at page 3.
5 See testimony of Mr. Woolridge.

1 plant.

2

3 **Q: DOES OG&E CLAIM OTHER POTENTIAL RATEPAYER BENEFITS TO**
4 **JUSTIFY THE PROPOSED RIDER?**

5 A: Yes. At page 3 of his direct testimony, Mr. Graves states that “The Red Rock
6 Construction Rider avoids the effect of ‘rate shock’ that would occur if the cost of
7 financing the construction of Red Rock were instead accumulated in an Allowance for
8 Funds Used During Construction (AFUDC) account that would be added to the direct
9 costs of the plant when it is completed and placed in rate base.”

10

11 **Q: DO YOU BELIEVE THE RATE-SHOCK CONCERN IS A VALID CONCERN?**

12 A: No. At page 23 of his direct testimony, Mr. Graves calculates an additional 1.4% rate
13 increase from using the AFUDC approach as compared with the Construction Rider
14 approach. He fails to explain, however, how a 1.4% rate increase constitutes “rate
15 shock.” He also fails to take into consideration numerous mitigating factors such as load
16 growth, fuel savings (from coal) and the substantial accumulated deferred income tax
17 (ADIT) offsets that will accrue after the plant is placed in service.

18

19 Further, Mr. Graves’ analysis only looks at the rate increase from the additional financial
20 carrying costs associated with an AFUDC versus Construction Rider approach. The
21 more important measure would be the total rate increase associated with including the
22 plant in rate base at the end of the construction period, which has to be done under either

1 approach. In general terms, a 12% tax-effected return on a \$790 million plant,
2 depreciated over 50 years, with \$150 million of AFUDC added to the balance,⁶ will
3 result in an annual rate increase of about \$131.6 million, once the plant is placed in rate
4 base. This increase, however, would have to be reduced by the fuel savings that result
5 from adding the additional coal capacity to the system. Mr. Walkingstick calculates
6 these fuel savings to be approximately \$0.0023/kWh.⁷ This amounts to a rate reduction
7 of about \$55.2 million.⁸ This means the total net rate increase from adding the Red Rock
8 plant would be \$76.4 million.⁹ Using OG&E's total utility revenues in 2006 of \$1.65
9 billion, this amounts to a rate increase of 4.63%.¹⁰ Using the system growth projections
10 provided in Mr. Walkingstick's testimony at Exhibit RDW-2, the system load at the end
11 of the 6-year construction period will have grown by 11.3%.¹¹ This growth will absorb
12 enough of the 4.6% projected rate increase to eliminate "rate shock" avoidance as a
13 credible justification for the proposed rider.

14
15 **Q: IN THE CURRENT PSO RATE CASE PROCEEDING, PSO ASSERTS, ALONG**
16 **WITH STAFF, THAT INCLUDING CWIP IN RATE BASE AS THE NEW**
17 **INVESTMENT IS MADE PROVIDES A LOWER TOTAL COST TO**
18 **RATEPAYERS? DOES OG&E MAKE THE SAME CLAIM IN THIS**
19 **PROCEEDING?**

6 Mr. Graves' calculation from page 23 of his direct testimony

7 See Exhibit RDW-2 attached to Mr. Walkingstick's direct testimony.

8 Estimated sales of 24,000,000,000 kWh x \$0.0023 = \$55,200,000.

9 \$131.6 - \$55.2 = \$76.4.

10 \$76,400,000 / 1,650,000,000 kWh = 4.6%.

11 23,940,366,315kWh - 21,510,163,697kWh / 23,940,366,315kWh = 11.3%.

1 A: No. It does not. Instead, Mr. Graves is fairly forthcoming with respect to the financial
2 impact to ratepayers from a concurrent rather than a deferred recovery of CWIP
3 financing costs. When the time value of money is considered, as it must be in any
4 financial analysis where the value of future payments is assessed, Mr. Graves
5 acknowledges there is no net benefit to paying these costs early. At pages 6 and 7 of his
6 direct testimony, Mr. Graves states:

7 Thus, while customers pay gradually higher rates during the construction
8 phase as they contribute to the carrying costs of CWIP, they obtain a
9 benefit in terms of lower rates through out the assets' book life compared
10 to the AFUDC deferred recovery technique. If nothing else changes, this
11 shift of timing (more early, less later) has a zero present value impact on
12 the overall costs to ratepayers or return to investors. (Emphasis added).
13

14 Unlike PSO and Staff, OG&E acknowledges there is no financial benefit to ratepayers
15 from paying CWIP costs early.¹²

16
17 **Q: HAVE YOU PERFORMED ANY ANALYSIS TO SUPPORT THE**
18 **CONCLUSION THAT THERE IS NO FINANCIAL BENEFIT TO PAYING**
19 **CWIP COSTS EARLY?**

20 A: Yes. Exhibit MG-2 attached to this testimony confirms Mr. Graves' statement that, if
21 nothing else changes, the shift in timing of CWIP payments has a zero present value
22 impact to ratepayers. To confirm this conclusion, Exhibit MG-2 adds \$160 million of

12 This assumes that ratepayers' discount rate is equal to the utility's rate of return, meaning that money is at least as valuable to ratepayers as it is to the company. In reality, the opportunity cost to low-income ratepayers is likely to be much higher than the utility's ROR, since many lower income ratepayers will have credit card debt rates that are double the utility's ROR. This means that paying early through the rider approach would be financially detrimental to these ratepayers. Further, from the perspective of Commercial and Industrial customers, these ratepayers would virtually always choose to invest in their own operations and projects rather than subsidize the utility's construction projects.

1 construction costs annually for 5-years to arrive at a total plant cost of \$800 million at
2 the end of the construction period, similar to the Red Rock proposal. In Columns E and
3 F the construction financing costs are deferred, as with AFUDC. In Columns G and H
4 the construction financing costs are recovered as they are incurred. Columns I and J
5 show the annual and cumulative net cost/benefit to ratepayers from the two approaches.
6 The cost of the plant are recovered over a 50-year life and the rate of return used in the
7 analysis in OG&E's ROR from the 2005 rate case. Row 59 shows the Net Present Value
8 of the two payment streams, one with construction financing costs deferred and the other
9 with these costs recovered concurrently. This exhibit confirms the statement that, if
10 nothing else changes, there is a net present value impact to ratepayers under either
11 approach. It is interesting to note, however, in Column J, which shows the cumulative
12 net savings to ratepayers that result from the AFUDC approach, that equality between
13 the two approaches is achieved in year 50. That is, a ratepayer who paid early (under the
14 rider approach) would achieve equilibrium only if they stay on the system for 50 years.
15 If the ratepayer leaves before then, they lose money.

16
17 **Q: IS IT REASONABLE TO ASSUME THAT “NOTHING ELSE CHANGES” IN**
18 **THIS ANALYSIS?**

19 A: Obviously, you have to make that assumption to isolate and analyze the financial impact
20 to ratepayers under the two proposed scenarios. However, there are “other changes” in
21 the ratemaking process that cannot be ignored. The first is load growth, which has a
22 significant financial impact on the present value calculations. The second is short-term

1 debt, which is used extensively in the AFUDC calculations, but not in OG&E's RRCR.

2
3 **Q: HOW DOES LOAD GROWTH IMPACT THE CALCULATIONS?**

4 A: When projected load growth is included in the analysis, there is a distinct disadvantage
5 to paying CWIP financing costs early, since by paying later, there is more load over
6 which these costs may be spread.¹³ Exhibit MG-3 shows the same analysis as MG-2
7 with load growth added to the equation. This exhibit shows the considerable savings to
8 ratepayers from deferring the financing costs during the construction period and
9 collecting these costs from the broader base of ratepayers that exists when the 6-year
10 construction period is complete and the asset is placed in service. Exhibit MG-3 uses an
11 annual growth rate of 1.8% (taken from OG&E's RDW-2). Again in this schedule, the
12 present value of the two payment streams, without growth, are equal. However, the
13 present value of the two payment streams, with growth included, can be seen in Columns
14 G and J. With system growth included in the analysis, there is a **\$27.139 million benefit**
15 to ratepayers under the AFUDC approach.

16
17 **Q: HOW DOES THE USE OF SHORT-TERM DEBT IMPACT THE**
18 **CALCULATIONS?**

19 A: The AFUDC formula assumes that CWIP is financed first with short-term debt, and then
20 with long-term debt and equity. The utility's rate of return (ROR), which in this case
21 will be used to calculate the RRCR recoveries, includes only the amount of short-term

13 And, since increased load is the primary reason for adding the plant, it is only fair that the new load should bear its fair share of these added costs.

1 debt left over after AFUDC calculations. In other words, the AFUDC composite rate is
2 typically much lower than the utility's ROR. So, the amount recovered through the
3 RRCR would be much higher than the amount deferred under the AFUDC approach.
4 This would cause the present value of the payment stream under the AFUDC approach
5 to be much lower than the RRCR rider. Thus, considering load growth and the lower
6 AFUDC composite rate, the RRCR rider approach would impose substantial additional
7 financial burdens on ratepayers compared with the traditional AFUDC approach. These
8 financial burdens would be added to the substantial shift in risk that occurs under the
9 rider approach and the various ratemaking violations (discussed below) that occur when
10 a utility begins recovering the cost of an asset before it is placed in service. The sum
11 total of all these additional ratepayer burdens would have to be assessed in the
12 Commission's decision to implement such a rider.

13
14 **Q: WHY IS IT GENERALLY CONSIDERED INAPPROPRIATE TO ALLOW A**
15 **UTILITY TO BEGIN RECOVERING THE COST OF AN ASSET BEFORE THE**
16 **ASSET IS ACTUALLY DEDICATED TO PUBLIC SERVICE?**

17 A: There are numerous reasons why this recommendation is inappropriate. Although not
18 intended to be an all-inclusive list, below is partial list of the reasons why the
19 Company's proposed rider is contrary to long-established regulatory principles.

20 **(1) Violates cost/causation principles.** One of the most fundamental
21 ratemaking principles followed in virtually every jurisdiction is that costs should be
22 assessed to and recovered from those ratepayers who cause the costs to be incurred.

1 When new generation plants are built in anticipation of future load growth, the cost of
2 these plants should be borne by those future ratepayers that create the need to build the
3 plants. Here, the Company recommends charging these costs to current ratepayers to
4 whom the assets are not yet available.

5 **(2) Violates the matching principle.** The *matching principle* requires that costs
6 be matched with the benefits they provide. In this case, the “cost” would be the recovery
7 of the plant through depreciation expense, and the “benefit” would be the electricity
8 produced from the plant. Here, ratepayers would be forced to begin paying the “cost” of
9 the plant before the plant is producing any “benefits” to the ratepayers.

10 **(3) Violates the rule against intergenerational inequity.** Sound ratemaking
11 policy requires that each generation of ratepayers pay its own way. This means that one
12 generation of ratepayers should not be required to subsidize another generation, nor
13 should one generation expect to be carried by another generation of ratepayers. Here,
14 current ratepayers would be required to subsidize a future generation of ratepayers. Mr.
15 Graves attempts to address this concern at page 17 of his direct testimony where he
16 points out that “current customers are benefiting from receiving power from greatly
17 depreciated generating facilities that still operate quite efficiently.” But, this is true of
18 every generation of ratepayers. Some of the assets they use are greatly depreciated and
19 some are new. No ratepayer generation in Oklahoma to this point has been forced to
20 subsidize a future generation by paying the financing cost of assets not yet in service.
21 Mr. Graves also attempts to address this concern by stating at page 10 that the majority
22 of current customers will be future customers. While this may be true, it does not

1 overcome the general rule against intergeneration subsidizations. For example, elder
2 individuals should not be forced to pay for a plant they may never use. Businesses
3 should not be forced to subsidize the costs of future competitors. Industry should not be
4 forced to prepay the costs of a plant they might not be here to use. As a rule, it is poor
5 public policy to force current captive customers to pay higher rates so that future
6 customers can pay rates that are lower.

7 **(4) Violates the Used and Useful Doctrine.** This long-held ratemaking rule
8 requires that ratepayers pay for only those assets that are *used and useful* for the
9 provision of utility service. The origins of this fundamental ratemaking doctrine are
10 grounded in the constitutional *prudent investment* rule. This rule is applicable in every
11 jurisdiction, including Oklahoma.¹⁴ Here, OG&E's recommended rider runs afoul of the
12 *used and useful* standard because it requires ratepayers to pay for assets not yet used and
13 useful for the provision of service.

14 **(5) Violates the general prohibition against Piecemeal Ratemaking.** A basic
15 ratemaking principle utilized in virtually every jurisdiction is that utility rates are set to
16 recover the cost levels of a utility that exist at a given point in time, a test year.¹⁵
17 Regulators use a test year to synchronize a utility's investment levels, cost of capital,
18 operating revenues, expenses, depreciation and taxes. As time passes after the test
19 period, the investment, cost, and revenue levels all change, some to the advantage and
20 others to the disadvantage of the utility. Here, the proposed rider will raise rates for an
21 isolated investment level increase, without giving consideration to other changes in the

14 See, *Duquesne Light Co. v. Baracsh*, 488 U.S. 299 (1989).

15 See for example, *Accounting for Public Utilities*, Hahne and Aliff, §7.02.

1 revenue and cost levels that occur over the same period of time.

2
3 **Q: PLEASE FURTHER EXPLAIN HOW THE RRCR RIDER VIOLATES THE**
4 **USED AND USEFUL DOCTRINE?**

5 A: The purpose of the RRCR rider is to recover the financing costs of an unfinished
6 construction project. This would have the effect of forcing current ratepayers to pay the
7 costs of a project not yet placed in service. In other words, rates would include the cost
8 of assets not yet used and useful. This violates the long-held ratemaking principle that
9 investors are allowed to earn a return only on that portion of their invested capital used
10 and useful in providing utility service.¹⁶ On occasion, public utility commissions may
11 include some level of CWIP in rate base when the completion date of a project is
12 imminent and the facilities will be “in service” before the new rates take effect. This
13 approach does not violate the used and useful doctrine because the assets will be used
14 and useful (in service) before ratepayers start paying for them.¹⁷ On rare occasions,
15 commissions may include CWIP projects in rate base that will be completed after the
16 new rates take effect. In these instances, however, the utility is generally required to
17 show that significant financial harm will result if the CWIP costs are not included in
18 rates.¹⁸ However, when the project will not actually be in service before the rate order is
19 issued, there are few instances when a public utility commission is willing to include the

16 *Bluefield Water Works & Improvement Co. v. PSC of W. Va.*, 262 U.S. 679 (1923). *Denver v. Denver Union Water Co.*, 246 U.S. 178 (1918); *Willcox v. Consol. Gas Co.*, 212 U.S. 19 (1909).

17 It does, however, violate synchronization goals and policies against piecemeal ratemaking.

18 *See Texas PUC v. Office of Pub.Util.Counsel*, 849 S.W.2d 864 (Tex. 1993). *See RE Sierra Pacific Power Co.*, 129 PUR4th 470, 491 (Nev.PSC, 1992).

1 project costs in rates.

2

3 **Q: ARE THERE EXAMPLES OF INSTANCES WHERE UTILITY PLANT WAS**
4 **CONSIDERED *USED AND USEFUL* BEFORE THE PLANT WAS ACTUALLY**
5 **PLACED IN SERVICE?**

6 A: The general rule is that utility plant is considered used and useful only after the plant is
7 devoted to public service. However, in the pending PSO rate case, in response to OIEC
8 Data Request 9-18, PSO cited language from one case where the court agreed with the
9 finding of the D.C. Commission, stating that “funds are not necessarily ‘used and useful’
10 only when they are currently invested in completed plants.”¹⁹ PSO failed to reveal,
11 however, that the D.C. Commission abruptly reversed its new policy only four years
12 later in a 1979 Potomac Electric Power case. In that decision, the commission excluded
13 CWIP from rate base, stating that it now recognized “present customers should not pay
14 for facilities that will be used to provide service for future customers.”²⁰

15

16 **Q: PLEASE FURTHER EXPLAIN WHY THE PROPOSED RRCCR RIDER IS A**
17 **FORM OF PIECEMEAL RATEMAKING?**

18 A: Yes. The RRCCR rider is a classic example of objectionable piecemeal ratemaking. The
19 proposed rider will increase rates for expenditures for an isolated investment, without
20 giving consideration to changes in other costs and revenues that occur over the same
21 period of time. A basic ratemaking principle followed in substantially every jurisdiction

19 Goodman v. D.C.PSC, 497 F.2d 661, 668 (D.C.Cir. 1974).

20 Re Potomac Elec. Power Co. 29 PUR4th 517 (D.C.PSC, 1979).

1 is that utility rates are set to recover the cost levels of a utility that exist at a given point
2 in time, a test year. Regulators use a test year to provide a “snap-shot” of the utility’s
3 investment level, operating revenue and expense, depreciation and taxes. As time passes
4 after the test period, these revenue and cost levels change. Some operating expense
5 levels may increase, but these increases are often offset by increases in revenue levels
6 from customer growth or from decreases in other expense accounts from either new
7 efficiencies gained or other cost-cutting measures. Likewise, investment levels may
8 increase with the addition of new plant, but these increases are generally offset with
9 decreases in the investment levels that occur when investment is returned through
10 depreciation recoveries or with increases in revenues from new load.
11 If, after rates are set, the utility earns more than its authorized return because either
12 revenues increased and/or cost levels declined, the utility is allowed to keep the
13 difference. If conversely, the utility earns less than its authorized return because either
14 revenues declined and/or cost levels increased, the utility suffers the loss. This is the
15 ratemaking paradigm utilized in virtually every jurisdiction. An important part of this
16 paradigm is the risk element, the risk the utility assumes that it will not earn more, and
17 perhaps will earn less, than its authorized return. It is this element of risk embedded in
18 the paradigm that allows the utility’s return on equity to be set at levels above that of
19 risk-free capital. If, during the period new rates are in effect, a utility wants to earn its
20 authorized return, or more than its authorized return, it will have to operate its business
21 in an efficient manner. If a commission were to approve the recovery of one of these “at
22 risk” costs through a rider mechanism, it would need to also make a corresponding

1 downward adjustment to the utility's return on equity to reflect the reduced amount of
2 risk now assumed by the utility.

3
4 **Q: ARE THERE OTHER REASONS WHY PIECEMEAL, OR SINGLE ISSUE**
5 **RATEMAKING, IS POOR PUBLIC POLICY?**

6 A: Yes. There are several. When a particular type of expenditure is provided recovery
7 treatment through a rider mechanism it tends to remove the utility's incentives to
8 efficiently manage and control this cost. When recovery is assured, the company can
9 neither make nor lose money on a particular cost; thus, management no longer has a
10 profit incentive to vigorously control the cost. Riders also tend to bias management's
11 decisions toward costs that are tracked. For example, management may be tempted to
12 forgo a capital investment that does not receive immediate recovery through a rider
13 mechanism in favor of one that does. Thus, the rider mechanism is poor public policy
14 because it can actually create artificial disincentives for management's cost-control and
15 decision-making functions. Finally, there is a considerable increased administrative
16 burden at the Commission level involved in tracking riders to ensure that the rider costs
17 were prudently incurred, quantified and classified in the proper accounts for recovery.
18 Here, the proposal is that only the Company and Staff will be involved in the assessment
19 and true-up of this rider. This denies other parties the right to participate in the process.
20 This is inappropriate from a public policy perspective as well.

21
22 **Q: IS THE COMPANY'S PROPOSED PIECEMEAL TREATMENT CONSISTENT**

1 **WITH RATEMAKING POLICY IN OKLAHOMA?**

2 A: No. OG&E's proposed rider isolates one type of cost that the Company anticipates will
3 increase between rate cases and allows the Company to recover these costs through a
4 rider pass-through to ratepayers. In Oklahoma, the legislative intent with respect to the
5 ratemaking treatment of post-test-year changes is set forth in Title 17 §284, where the
6 Commission, in its review of a utility's application to change rates, is directed to give
7 effect to all known and measurable changes that occur within six months of test year
8 end. This provision provides a reasonable cut-off for post-test-year considerations.
9 Statutory limitations, such as those prescribed in Oklahoma, and in other states, for post-
10 test-year changes were developed to provide judicial economy and to protect the utility
11 and ratepayers alike from requests to consider isolated changes in utility cost levels in a
12 piecemeal fashion.

13
14 **Q: HAS THE OCC IN THE PAST ENGAGED IN THE TYPE OF PIECEMEAL**
15 **RATEMAKING PROPOSED BY OG&E IN THESE RIDERS?**

16 A: No, the rider proposed by OG&E in this proceeding significantly broadens the use of the
17 rider mechanism. The OCC, like many other commissions, allows the use of a tracking
18 mechanism (rider) for the recovery of fuel and purchased power costs for electric
19 utilities, and for purchased gas costs for gas utilities. There are several important
20 attributes of fuel and purchased power and gas costs, however, that qualify these
21 particular expenditures for special ratemaking treatment. Some of these attributes are
22 listed below:

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1. These costs are extremely large in comparison to the total costs of the company, 41% for OG&E.
2. The costs are large enough to cause significant earnings fluctuations for the company.
3. The costs are volatile enough that establishing an ongoing anticipated level in rates during a rate case would be difficult.
4. The costs are more subject to market forces than management control.

Q: DO THE COSTS IDENTIFIED BY OG&E FOR RIDER TREATMENT HAVE THE ATTRIBUTES OUTLINED ABOVE?

A: No. The identified costs are large, but the costs are within management’s control and will not cause significant earnings fluctuations. More importantly, the identified costs are investment costs, not operating expense or fuel costs. Changes in investment levels are almost always recognized through a rate case review, where the new increases for additional plant can be offset – either entirely or partially – with decreases in the investment levels through depreciation recoveries and additional revenues from customer growth. This makes perfect sense, since the new plant is being added either to replace older plant or to accommodate new load. Either way, only the net increase in costs should be charged to the ratepayers. Here, ratepayers will be assessed the additional financing costs for new plant during the construction period with no offsets for lower investment levels from depreciation recoveries or additional revenues from load growth.

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Q: HAS THE OCC APPROVED RIDERS IN THE PAST TO RECOVER PLANT INVESTMENT?

A: Yes. The Commission has approved rider-recovery treatment for OG&E’s Homeland Security investment costs and the Centennial Wind project. Both of these projects, however, differ significantly from the proposed Red Rock plant. Understandably, there are exigent circumstances surrounding investment for security measures after the terrorist attacks on 9/11. Undoubtedly, OG&E would not point to the Homeland Security rider as precedent for the RRCR. With respect to the Centennial Wind project, this began as a PURPA application where OG&E would have been required to purchase the energy produced by the project. Further, the rider recovery mechanism that came out of this case was the result of a stipulated agreement among the parties involved. The Homeland Security rider and the Centennial Wind rider both address unusual circumstances where the parties involved agreed to the recovery treatment.

Q: DID OG&E POINT TO ANY OTHER COMMISSION THAT HAS IMPLEMENTED A RIDER SIMILAR TO THE PROPOSED RRCR RIDER?

A: No. Mr. Graves discusses CWIP treatment in the 1970s and early 1980s where some Commissions included CWIP in rate base for various reasons. He admits though that the large accumulations in AFUDC balances during this period were largely related to long construction periods associated with large nuclear projects and the double-digit inflation and interest rates that existed at that time. His entire discussion, however, focuses on

1 occasions where commissions allowed CWIP in rate base under various circumstances.²¹
2 Allowing CWIP in rate base, as part of a comprehensive rate case, is a far cry from
3 recovering CWIP costs through a rider. When commissions include CWIP in rate base,
4 it is generally on those occasions when the projects will be completed shortly after test
5 year end – and before new rates go into effect – or on those rare occasions when the
6 utility needs rate relief to avoid financial impairment.

7
8 **Q: DO YOU HAVE ANY COMMENTS IN RESPONSE TO MR. HATFIELD’S**
9 **TESTIMONY?**

10 **A:** There are two areas of his testimony that should be addressed. When asked if there were
11 a provision in Oklahoma law that would allow OG&E to recover the cost of a generating
12 facility before the facility is placed in service, Mr. Hatfield refers to Commission Rule
13 165:35-38-5 which states:

14 An Electric utility subject to rate regulation by the Corporation
15 Commission may elect to file and application seeking approval by the
16 Commission to construct a new generating facility or to purchase an
17 existing generation facility subject to the provisions of this subsection. If,
18 and to the extent that, the Commission determines there is a need for
19 construction or purchase of such electric generating facility, the
20 generating facility shall be considered used and useful and its costs shall
21 be subject to cost recovery rules promulgated by the Commission.
22

23 Mr. Hatfield then states that “As quoted above, the rule states that if the Commission
24 determines there is a need for construction of such generating facility, the generating
25 facility shall be considered used and useful.” He uses this language to support the
26 Company’s request to recover the costs of the plant before the plant is competed and

21 See pages 8-10 of Graves’ direct testimony.

1 placed in service. The problem with this position is that the Commission Rule and the
2 statute from which the rule is taken both clearly state that it is the “Generating Facility”
3 that will be considered used and useful, not the construction costs of the facility along
4 the way. And clearly, the statute contemplates the difference between a completed
5 facility and the construction work in progress expenditures incurred prior to completion.
6 Below the language quoted above from paragraph 1 of the subsection, paragraph 5
7 states:

8 5. The Commission shall also consider rules which may permit an
9 electric utility to begin to recover return on of return of Construction-
10 Work-in-Progress expense prior to commercial operation of the newly
11 constructed electric generation facility subject to the provisions of the
12 subsection. (Emphasis added).
13

14 Taken together, the meaning of these paragraphs is clear. The approved *generating*
15 *facility* itself, once built or purchased, will be considered used and useful. However, the
16 Construction-Work-in-Progress expenses of the facility prior to commercial operation
17 are a separate matter, not specifically authorized by the statute or Commission rules. In
18 fact, the Commission recently considered utility CWIP recovery in a rulemaking and
19 elected not to promulgate CWIP recovery rules as a result of that proceeding.
20

21 **Q: DO YOU HAVE OTHER COMMENTS TO MR. HATFIELD’S TESTIMONY?**

22 A: Yes. Mr. Hatfield’s testimony suggests that the special RRCR rider recovery mechanism
23 is needed to avoid a detrimental down-grade of OG&E’s credit ratings. In fact, at page
24 27 of his direct testimony he states:

25 I believe the amount of cash erosion associated with Red Rock AFUDC

1 would almost certainly result in at least a one notch downgrade and
2 probable two notch downgrade in OG&E's credit ratings.
3

4 If we assume for discussion purposes that this statement is true, then one would have to
5 wonder why OG&E voluntarily participated in the PSO bid, offering to build a plant it
6 could not afford to build without a special regulatory recovery mechanism to accelerate
7 its cost recovery of the plant.
8

9 Mr. Woolridge discusses why these potential downgrades are not supported by the
10 evidence, and why, from a financial market perspective, the Red Rock Construction
11 Rider does not appear to be needed at this time to preserve the financial health of OG&E.
12

13 **Q: HAVE YOU REVIEWED THE TESTIMONY OF MR. MOTLEY?**

14 A. Yes. Mr. Motley compares three different regulatory approaches for recovering the Red
15 Rock project costs. He looks at (1) the traditional AFUDC approach, where financing costs
16 are deferred in an AFUDC account and added to the plant balance when it is placed in
17 service, (2) the rate case approach, where Red Rock CWIP costs are placed in rate base in
18 an interim rate case prior to the project completion date and (3) the RRCCR rider approach,
19 where construction financing costs are recovered concurrently through a rider. He
20 concludes that the RRCCR approach has the lowest total impact on rates with \$134M,
21 followed by the Rate Case CWIP alternative with \$147M, and the AFUDC approach
22 with \$157M. While Mr. Motley's numbers may be mathematically correct, they do not
23 take into consideration the time value of money – one of the most fundamentally

1 important elements of any financial evaluation. When this crucial element is included in
2 the evaluation, as acknowledged by Mr. Graves, the financial impact of the AFUDC
3 approach and the RRCR rider approach are identical. However, when load growth is
4 also included in the evaluation, the AFUDC approach is clearly the least-cost approach
5 for ratepayers.

6
7 **Q: ARE THERE OTHER POINTS IN MR. MOTLEY'S TESTIMONY YOU WISH**
8 **TO ADDRESS?**

9 A: Yes. Mr. Motley attempts to justify the RRCR rider with a "rate shock" argument based
10 on a planned 6-year, \$3.3 billion capital improvements program. There are several
11 problems with this approach. Most notably, the other capital expenditures – other than
12 Red Rock – are not a part of this application, the project costs are unsupported and the
13 timing of this massive capital improvement initiative is completely unsubstantiated in
14 this proceeding. Nevertheless, even if we accept Mr. Motley's rate increase projections
15 for the construction initiative, these projections do not support a radical departure from
16 the sound ratemaking principles followed by this Commission in the past. Mr. Motley
17 projects a \$249 million net increase in customers' bills in 2012. Based on current
18 revenues of \$1.65 billion, this amounts to, approximately, a 15% rate increase.
19 However, revenues are expected to also increase by 11.3% over this same period. This
20 leaves a net 3.7% increase not covered by growth. First, this is not the type of increase
21 that constitutes "rate shock" and further, this increase could be avoided or reduced in
22 several different ways. For example, if the 6-year initiative were instead implemented

1 over an 8-year time frame, the 15% increase in rates would be absorbed by the 15%
2 increase in load that is expected to occur by 2014. Also, OG&E could adjust its capital
3 structure from a 44/56 debt to equity ratio to a more reasonable 55/45 structure, which
4 would be comparable to PSO's structure and more in line with the utility industry in
5 general. This would reduce the expected rate increase by about \$50 million and bring it
6 back in line with expected growth over the same period. Again, however, the amount
7 and timing of the Company's "planned" construction initiative are completely
8 unsupported in this proceeding and should not be used to justify the implementation of a
9 new Construction Rider for the Red Rock plant.

11 **III. APPROPRIATE RECOVERY APPROACH**

12
13 **Q: WHAT IS THE APPROPRIATE RECOVERY APPROACH FOR THE RED**
14 **ROCK CONSTRUCTION COSTS IF THE PROJECT IS APPROVED IN THIS**
15 **PROCEEDING?**

16 **A:** From a sound regulatory perspective, the appropriate approach in this situation is the
17 Rate Case-CWIP approach. This is the second alternative discussed by Mr. Motley.
18 Under this approach, OG&E will file a rate case sometime between now and when the
19 Red Rock project is complete. At that time, all of the "other construction" projects that
20 are completed and in service will be added to rate base. Also at that time, the CWIP
21 associated with the Red Rock project can be evaluated in light of the Company's
22 financial condition at the time of the rate case. In that way, if the Red Rock costs are

1 putting a financial strain on the Company and potential credit rating downgrades are
2 pending, the Commission could chose to include a portion of the Red Rock project
3 CWIP costs in rate base sufficient to avoid such downgrades. Under this approach, the
4 Commission's decision would be based on the actual circumstances that exist at that time
5 of the decision, rather than on speculations made years in advance. Incidentally, the
6 timing of the rate case filing would be solely in the control of the Company, since it
7 would be in the best position to know if, and when, rate relief is needed.²²

8
9 **Q: ARE THERE OTHER REASONS WHY A RATE CASE, OR RATE CASES,**
10 **DURING THE 6-YEAR CONSTRUCTION PERIOD WOULD BE HELPFUL TO**
11 **RATEPAYERS?**

12 A: Yes. The Company is expecting substantial load growth during this period. This growth
13 will significantly change the revenues collected from each class. These changes could
14 materially alter the Company's class cost of service and rate design for each class.
15 Unless there is a rate case, these important class cost-of-service changes cannot be
16 reflected in rates. Also, there are significant class subsidies currently embedded in rates.
17 These subsidies cannot be reduced or eliminated without a rate case. With a \$3.3 billion
18 construction initiative planned, from OIEC's perspective, the utility will have to change
19 its Production Cost allocator from the Average and Excess allocator used now to an
20 allocation based more on demand, such as the 4-CP approach required in Arkansas. This
21 can only be done as part of a comprehensive rate case review.

22 Currently, OG&E is scheduled for file its next rate case sometime in 2009. However, there is nothing to prevent the Company from filing a rate case before then if one is needed.

IV. SUMMARY OF RECOMMENDATIONS AND CONCLUSION

1 **Q: PLEASE SUMMARIZE YOUR RECOMMENDATIONS REGARDING THE**
2 **PROPOSED RRRCR RIDER.**

3 A: The rider violates numerous long-held ratemaking principles including: cost-causation
4 and cost-benefit rules, inter-generational equity, the used and useful doctrine,
5 synchronization goals and policies against piecemeal ratemaking. The rider also shifts
6 additional regulatory risk to ratepayers and substantial additional financial burdens as
7 well. In short, when the time value of money, load growth and short-term debt are
8 included in the analysis, the RRRCR rider is much more costly to ratepayers than the
9 traditional AFUDC approach. The two ratepayer benefits represented by the Company –
10 rate shock avoidance and avoidance of credit rating downgrades – are both illusory.
11 With respect to rate shock, additional revenues from load growth during the construction
12 period should absorb much of the increased revenue requirement that results from the
13 Red Rock project. With respect to credit rating downgrades, Mr. Woolridge testifies that
14 these “alleged” downgrades are not supported by the evidence. Further, if the Red Rock
15 plant, in addition to the Company’s “other” planned construction projects would have
16 actually placed OG&E in peril of downgrades, then the Company should not have
17 participated in the PSO RFP, or the Company should extend the timing of its “other”
18 projects. Either of these actions would avoid the need for the ratepayer subsidy the
19 Company now seeks.

20

1 The appropriate ratemaking approach in this situation, is the Rate Case approach. In the
2 context of a rate case, any of the Company's "other" projects that are completed at that
3 time could be included in the Company's rate base. The Commission could also decide
4 whether to include a portion of the Red Rock CWIP costs in rate base, based on the
5 financial condition of OG&E at the time of the rate case. This approach preserves
6 ratepayer protections provided under various long-held ratemaking rules followed by this
7 Commission and other commissions across the country. This approach also provides
8 protections for the financial health of the utility as well. From a public policy
9 perspective, this is a far better approach than the ratepayer subsidy approach
10 contemplated under the proposed RRCR rider.

11

12 **Q: DOES THIS CONCLUDE YOUR TESTIMONY AT THIS TIME?**

13 A: Yes. It does.

QUALIFICATIONS OF MARK E. GARRETT

EDUCATION:

Juris Doctor Degree, Cum Laude, 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:

CONSULTING PRACTICE (1995 - Present) Participate 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. Review management decisions of regulated utility companies for reasonableness from a ratemaking perspective, especially in proceedings to review the reasonableness of prices paid for natural gas supplies, natural gas transportation, coal supplies, coal transportation and purchased power. Participate 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. Participate in regulatory proceedings to restructure the electric and natural gas utility industries.

OKLAHOMA CORPORATION COMMISSION - Coordinator of Accounting and Financial Analysis (1991 - 1995) 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 for Real Estate Development Company with \$300 million in assets (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, CPA's - Auditor (1985 - 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. **Public Service Company of Oklahoma, 2006 (Cause No. PUD 06-285)** – Participating as an expert witness on behalf of the Oklahoma Industrial Energy Consumers (“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.
2. **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.
3. **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.
4. **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.
5. **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.
6. **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 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.
7. **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.
8. **Oklahoma Gas and Electric Co., 2006 (Cause No. PUD 05-00041)** – Participated as an expert witness on behalf of the OIEC in OG&E’s application to propose an incentive sharing mechanism for SO₂ allowance proceeds.
9. **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.
10. **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.

11. **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.
12. **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.
13. **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.
14. **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.
15. **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.
16. **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:
17. **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.
18. **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.
19. **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.
20. **Oklahoma Gas & Electric Co., 2003** – Participated as an expert witness on behalf of the OIEC in OG&E's general rate case application before the OCC to address numerous rate base, operating expense and rate design issues for the purpose of setting prospective cost-of-service based rates.

21. **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.
22. **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.
23. **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.
24. **McCarthy Family Farms, 2003** – Participated as a consultant to assist in converting a biomass and biosolids composting process into a renewable energy power producing business in California.
25. **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.
26. **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.
27. **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.
28. **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.
29. **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.
30. **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.
31. **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.

32. **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.
33. **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.
34. **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.
35. **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.
36. **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.
37. **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.
38. **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.
39. **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.
40. **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.

41. **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.
42. **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.
43. **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.
44. **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.
45. **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.
46. **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.
47. **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.
48. **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.
49. **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.
50. **Enogex, Inc., 1995 (FERC 95-10-000)** - Analyzed Enogex's application before the FERC to increase gas transportation rates for third party shippers and made recommendations regarding revenue

requirement, cost-of-service and rate design on behalf of independent producers and shippers.

51. **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.
52. **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.
53. **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.
54. **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.
55. **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.