Issue(s):	Non-Unanimous Stipulation and Agreement
Witness/Type of Exhibit:	Marke/Affidavit
Sponsoring Party:	Public Counsel
Case No.:	EO-2018-0092

AFFIDAVIT OF GEOFF MARKE
IN OPPOSITION OF THE
NON-UNANIMOUS STIPULATION AND AGREEMENT

Submitted on Behalf of the Office of the Public Counsel

EMPIRE DISTRICT ELECTRIC COMPANY

CASE NO. EO-2018-0092

** **

Denotes Confidential Information
that has been redacted

May 9, 2018

Public Version

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of The Empire District Electric Company for Approval of Its Customer Savings Plan	)))	Case No. EO-2018-0092

AFFIDAVIT OF GEOFF MARKE

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Geoff Marke, of lawful age and being first duly sworn, deposes and states:

1. My name is Geoff Marke. I am a Regulatory Economist for the Office of the Public Counsel.

2. Attached hereto and made a part hereof for all purposes is my statement in opposition.

3. I hereby swear and affirm that my statements contained in the attached statement are true and correct to the best of my knowledge and belief.

Geoff Marke
Chief Economist

Subscribed and sworn to me this 4th day of May 2018.

NOTARY PUBLIC NOTARY SEAL STATE OF MISSOURI
JERENE A. BUCKMAN
My Commission Expires
August 23, 2021
Cole County
Commission #13754037

Jerene A. Buckman
Notary Public

My commission expires August 23, 2021.

I am the same Geoff Marke who previously submitted Rebuttal and Surrebuttal testimony in this docket on behalf of the Office of Public Counsel ("OPC").

The Empire District Electric Company ("Empire"), Midwest Energy Consumers Group ("MECG"), Staff of the Missouri Public Service Commission ("Staff"), Renew Missouri Advocates ("Renew Missouri"), and Missouri Department of Economic Development – Division of Energy ("DE") executed and filed a Non-Unanimous Stipulation and Agreement ("S&A") in this case on April 24, 2018.

Empire, MECG, and Staff witnesses filed affidavits in support of the S&A on April 24, 2018.

Empire Witness Chris D. Krygier put forward in his affidavit that the S&A is both reasonable and in the public interest based on five details, paraphrased as follows:

1.) Empire's modeling suggests that acquiring 600MW of wind generation in or near its service territory will result in an optimal cost-saving outcome;
2.) The inclusion of a $35 million market price protection provision and rate case one-year rate case moratorium;
3.) Agreement to reduce customer rates as a result of recent tax reform legislation;
4.) **
**; and finally
5.) For the near term, the Asbury plant will remain in operation.

This affidavit is filed in opposition to the S&A, in response to the supporting affidavits of the signatories, and, more specifically, to Mr. Krygier's five arguments in favor of Commission preapproval of an unnecessary capital investment.

Historically, economic regulation has been enacted when an industry showed itself to be a natural monopoly, one in which the economies of scale and scope were such that to have competing providers was uneconomical. Since monopoly providers of essential services are in a position to charge excessive prices while restricting output, regulation is needed to protect the consumer. Economic regulation of utilities acts as a stand-in for competition. Regulators in state public service commissions see the goal of rate of return regulation as protecting the captive ratepayer against the potential for monopoly abuses, while still allowing the monopoly to cover

its costs and earn a fair return for its owners. Empire's Customer Savings Plan is a categorical departure from this paradigm.

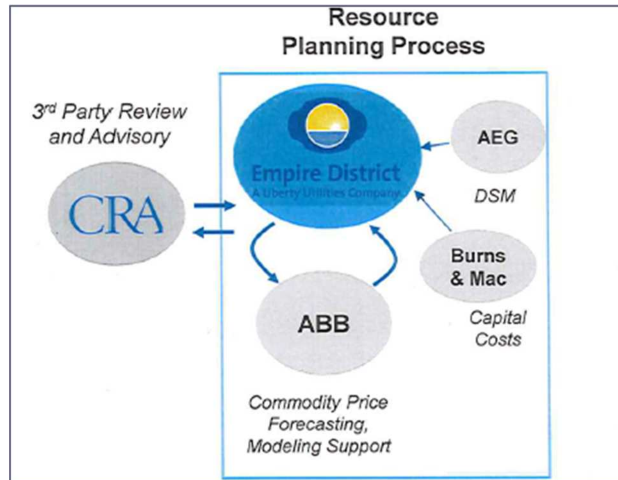
It is OPC's position that Empire's "Customer Savings Plan" is actually a request for the Company to become an insulated Independent Power Producer ("IPP"). The plan is designed to enrich shareholders. Whether or not it will result in customer savings is highly speculative and predicated on a static future. The Customer Savings Plan is surrounded by uncertainty and risk with only limited exposure for shareholders. Unlike other high-profile Wind projects coming online in SPP, there are no customer guarantees. Empire customers do not need additional supply side generation and clearly should not be forced to take on the financial risks associated with "playing the market."

The Non-Unanimous Stipulation and Agreement is not in the interest of Empire's customers, and is premised on terms that are aspirational, inappropriate and only provide token ratepayer protections for the exponentially greater risk they bear. The Commission should reject the application and the non-unanimous stipulation and agreement in total. I will now address Mr. Krygier's "reasonable assertions" point-by-point.

KRYGIER "REASONABLE ASSERTION" #1: EMPIRE'S MODELING SUPPORTS IT

As the basis for the S&A, parties have relied on Empire's analysis of the "economics of acquiring wind generation" in or near its service territory through its Generational Fleet Savings Analysis ('GFSA") and previous Integrated Resource Planning ("IRP") filings. Multiple different third-party consultants contributed to this analysis over several years. Charles Rivers and Associates was procured for purposes of reviewing the various modeling results and tradeoffs between plans. Figure 1 shows a visual interplay of the various consultants involved in Empire's modeling.

Figure 1: Empire's resource planning and GFSA process



Empire's modeling is opaque and flawed. To provide an illustrative example of the challenges that OPC has encountered consider Figure 2 which is reprinted from Company witness McMahon's affidavit.

Figure 2: Reprint of Empire Witness McMahon's "Figure 3: 20 Year Build Schedule Stipulation v Customer Savings Plan"

	Stipulation	Customer Savings Plan	2016 IRP Preferred Plan
2018	Update Asbury	Retire Asbury	
2019		800 MW Wind	
2020	600 MW Wind		
2021			
2022			
2023		Retire EC1	
2024			
2025		100 MW CC	
2026		Retire EC2	
2027			
2028			
2029			100 MW CC, 100 MW Wind
2030			
2031		100 MW Solar	150 MW Wind
2032		100 MW CC	
2033		Retire Riv 10&11	
2034			
2035	214 MW F Class CT		200 MW CC
2036			
2037			

Mr. McMahon's scenarios above are effective in continuing to frame the Customer Savings Plan in a particular light by selectively including and excluding key inputs. Taken at face value, The Customer Savings Plan above is the only plan that includes retirements of fossil fuel: Asbury, Energy Center 1, Energy Center 2, and Riverton 10 & 11. It is also the only scenario with a 100MW of Solar. At best, this is "misleading" or simply careless work. Table 3 provides a narrative description of the various omitted inputs in Mr. McMahon's figure as well as areas of which the Commission should be aware.

Table 3: Empire Witness McMahon's "Figure 3: 20 Year Build Schedule Stipulation v Customer Savings Plan" with OPC notes

	Stipulation	Customer Savings Plan	2016 IRP Preferred Plan
2018	Update Asbury	Retire Asbury	
2019		800 MW Wind	
2020	600 MW Wind		
2021			
2022			
2023	↔	Retire EC1	↔
2024			
2025		100 MW CC	
2026	↔	Retire EC2	↔
2027			
2028			
2029			100 MW CC, 100 MW Wind
2030			
2031		100 MW Solar	150 MW Wind
2032		100 MW CC	
2033	↔	Retire Riv 10&11	↔
2034			
2035	214 MW F Class CT		200 MW CC
2036			
2037			

> Demand-Side Management is not considered cost-effective in any scenario

> Elk River Wind PPA expires in 2026 in all three scenarios.

> Meridan Way Wind PPA expires in 2029 in all three scenarios.

> The inputs into this "Customer Savings Plan" are misleading. Retirements listed should also be included in other rows. It is not clear why a 100 MW CC is needed in seven years.

> Should include "Update Asbury;" or $19 million in environmental costs.

> Note that there are "at least" 10 years of no planned supply side investment needed. This represents 10 years of future "opportunity costs" to be directed at other utility cost-of-service need…including uncertainty

> Solar addition is misleading. Every scenario will include additional solar in the future.

> Asbury retires in 2035 in the 2016 IRP Preferred Plan

Empire's modeling is also flawed in that the market data informing the analysis is based on short-term assumptions used to project long-term benefits. The analysis has not properly

accounted for increased wind saturation in the Southwest Power Pool Integrated Market ("SPP IM" or "SPP") in the near or long-term.

As SPP has grown more saturated with wind, power prices have declined significantly. Increasing renewable penetration levels expand nodal versus zonal power basis differentials, which raises the risk associated with future new wind build investment. When local renewable generation exceeds local load, it can expand a project's power basis differentials, as measured by the difference in price at a given renewable generator's node (where the off-taker sells power into the wholesale market to offset its PPA costs) and the zonal price (the regional price of wholesale power). With financial hedges typically struck at the zonal price, increasing basis reduces the ability to effectively hedge a project's actual energy revenues (which are driven by prices at the node), thereby increasing the risk (and effectively the cost) of a given project.

The relationship between supply and demand is an important factor in all markets. Southwest Power Pool has already set at least a couple of new wind generation records this year, and more projects are queued up to come online. This raises the concern that there may not be enough demand for that energy, absent new markets or consumers. Increases in negative prices in the real-time market will depress prices in the day-ahead market, which in turn places doubt in Empire's revenue projections. Potential market rule changes to require non-dispatchable variable energy resources ("NDVERs" or wind and solar) to register as dispatchable variable energy resources ("DVERs") (which would allow SPP to curtail their output) was just narrowly voted down at the most recent SPP Markets and Operations Policy Committee last week, with expected appeals and subsequent revote to likely occur this July.[1]

On February 7th, I filed rebuttal testimony in this case illustrating the potential margin for error in Empire's modeling of its high wind, low coal scenario. The probability-weighted capacity assumed under Empire's high wind scenario accounted for 6.5GW of additional wind from 94 potential projects. Consider that "high wind" scenario against the following inputs:

- 244 MW Pratt Wind (KCPL PPA not included in Empire's analysis);
- 200 MW Prairie Queen (KCPL PPA not included in Empire's analysis);

[1] Kleckner, T. (2018) Vote to make variable resources dispatchable falls short at MOPC. RTO Insider. https://www.rtoinsider.com/spp-mopc-ndvers-non-dispatchable-variable-energy-resources-90513/

- 600 MW Empire (not included in Empire's analysis); and
- 2 GW AEP Windcatcher

If just these four projects come online it would represent 3GW of wind energy or approximately 47% of the probable wind under Empire's "high wind" scenario.

Equally troubling is the fact that Empire did not consider additional wind generation in SPP after 2020 in any model. This is particularly troubling as benefits are not projected to exist until well into the future. Again, short-term assumptions informing long-term benefits. It is worth noting that despite OPC raising these concerns in early February, Empire has not modeled for the possibility that more wind could be coming online in SPP.

As the Renewable Electricity PTC and ITC phase down continues it is likely much more wind generation will come on line in the near-term (assuming additional transmission lines and upgrades to existing infrastructure occur). The inundation of inexpensive wind and SPP's lowering of its planning reserve margin, combined with flat load growth have created a perfect storm of opportunity to strongly consider accelerating and expanding the retirement of inexpensive, inefficient generating units. This is true not just for Empire, but for every SPP member. OPC's concern regarding the Customer Savings Plan and the dynamic SPP market centers on the likely reactions from other market participants from these very same price signals.

Stated differently, citing a quote attributed to British Economist John Maynard Keynes:

> *Successful investing is anticipating the anticipation of others*.[2,3]

If Empire's modeling suggests retiring significant amounts of base load generation prematurely is prudent, then other SPP members modeling must show similar results. Under these circumstances, a near-term future where excess SPP reserve margins are erased entirely appears plausible, which would mean that during high demand hours (in the summer when it is not windy) there will likely be significant residual effects—namely higher cost generating units coming online than what would be predicted in a modeling exercise that does not account for other market actors' reactions.

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[2] Kanyes, J.M. qtd in. Bergman, G. (2006) *Isms—an Irreverent Reference*. Adams Media. p. 109.

[3] The irony of quoting an economist made famous for the idea that governments should spend money they don't have is not lost on the author. However, Empire Electric District is not a governmental entity (or a "free market" independent power producer) but a regulated natural monopoly.

Given the market signals apparent to OPC, Empire's Customer Savings Plan does not appear to be a sound investment for Empire's ratepayers.

KRYGIER "REASONABLE ASSERTION" #2: THE MARKET PRICE PROTECTION MECHANISM

As part of the S&A, the signatories have agreed to a market price protection mechanism that seeks to provide for the sharing of risk between customers and shareholders associated with the possibility of reduced market prices and wind production. Empire's shareholder risk exposure is capped at -$35 million over a ten-year period. No such cap exists for Empire's ratepayers.

It is OPC's position that the S&A's "market price protection mechanism" can more accurately be described as a short-term, "net detriment sharing mechanism." Given the universe of potentially bad outcomes, this mitigating provision appears wholly inadequate. To be clear, Empire ratepayers are disproportionately bearing the risks associated with being an investor in an IPP-scheme and Empire shareholders are disproportionately receiving the rewards associated from those ratepayers shouldering those unnecessary risks. If Empire's modeling assumptions prove to be incorrect, the piecemeal mechanisms in place surrounding this incomplete application create the setting for textbook monopoly abuse. It is now more than seven months since Empire filed its application and no one in this case can definitively state how much this project will cost, where it will go, or what the market will look like when it begins to generate revenue. Those are generally not attributes used when describing "sound investments."

The S&A's customer protections stand in glaring contrast with the customer protections the Public Service Company of Oklahoma ("PSO") and the Oklahoma Industrial Energy Consumers ("OIEC") recently agreed to regarding the construction of the 2GW Windcatcher facility and 756 kV dedicated Generation Tie Line in Cause No. PUD 201700267 before the Oklahoma Corporation Commission. According to the Supplemental Testimony of Steven L. Fate of the PSO, the customer guarantees are summarized as follows:

- Caps on Investment Costs. Parties agreed that investment costs above a fixed cap shall not be recoverable in rates and costs below the cap had no presumption of prudence.[4]
- Assurances that Customers Benefit from Federal PTC. Parties also agreed that customers should benefit from the federal production tax credits. The Oklahoma wind project will be eligible to receive 100% of the value of the production tax credits for the actual output from the wind facility, and "will only be excused from this guarantee by a change in federal law pertaining to the production tax credits, including changes to the Internal Revenue Code. Importantly, in the unlikely event that there is a change in federal law affecting the actual value of PTCs, customers are protected through the calculation of Net Benefits Guarantee described later."[5]
- Net Capacity Factor Guarantee. Parties agreed to provide a net capacity factor guarantee for the project with a "minimum net average capacity factor guarantee at the western bus-bar of 46% over the full 25 year life of the project in five consecutive five-year periods."[6]
- Guarantee Project Net Benefits. The parties agree to a mechanism determines project net benefits for customers during the initial ten years of project commercial operation. The methodology to demonstrate a net benefit calculation includes: "Project Revenue Requirement, Fuel Savings, PTC value, Carbon Savings, deferred capacity value, and Renewable Energy Credit value. The calculation is performed in year eleven of the Project. *If a benefit is not demonstrated, the Company will create a regulatory liability in the amount owed customers and amortize the liability in retail rates over the remaining period of commercial operation (years 11-25).*"[7]
- Off-System Energy Sales Margin Assurances. The parties agreed to credit customers 100% of the off-system energy sales margins that would not have

[4] Id. at Pg. 4
[5] Id at Pgs. 4-5.
[6] Id. at 5.
[7] Id. at 5-6 (emphasis added).

occurred but for the Project, as well as the net proceeds from the sale of RECs associated with the Project."[8]

- Most Favored Nation Provision. The agreement provided for a most favored nations provision to provide further protection to customers to incorporate beneficial terms agreed in other jurisdictions.[9]
- Protection from Extra-Jurisdictional Denial. The parties agreed that, in the event other jurisdictions do not agree to the wind project, Oklahoma jurisdictional customers' share of the project would not be increased.[10]
- Limited Return on Deferred Tax Asset Balance. The parties agreed to limit the company's ability to earn a return on any deferred tax asset balance to a cumulative annual average balance of two hundred forty million dollars or 30% of the project cumulative deferred tax asset balance over the first thirteen years of the project. There were also additional limits by applying a return on of the weighted average cost of capital on 60% of the asset and a cost of debt on the remaining 40% of the deferred tax asset balance. [11]
- Development Costs Recovery Restrictions. The Company agreed not to seek recovery of the development costs unless the commission approves the settlement agreement.[12]
- Timing of Base Rate Case Provision. The parties agree to address the timing of a base rate case subsequent to the start of the project's commercial operation.[13]
- Reporting Requirements. The parties agree to semi-annual reporting requirements.[14]
- Special terms Related to Nomination of Purchase of RECs. The parties agree to special terms to allow some customers to be able to nominate their purchase of renewable energy creds from the project. "The addition of a Special Term and Condition to PSO's current Green Energy Choice Tariff contained in Attachment

[8] Id. at Pg. 6.
[9] Id. at Pg. 6.
[10] Id. at Pg. 7.
[11] Id. at Pg. 7
[12] Id. at Pg. 8.
[13] Id. at Pg. 8
[14] Id. at Pg. 8

> 6 of the Settlement Agreement, sets forth the ability of Service Levels 1, 2, and 3 customer to select a purchase of RECs from the Project and receive attestations that certify the RECs thereby allowing participating customers to use the RECs for internal and external compliance purposes."[15][16]

It is important to note that the aforementioned protections/concessions have only been agreed to by certain Oklahoma industrial and commercial customers. Whether or not other parties will sign on or if further protections are solidified remains to be seen. Even so, the OIEC / PSO stipulation guarantees net benefits to PSO ratepayers over the first ten years. In contrast, the Missouri S&A guarantees that Empire shareholders will only be exposed to $35 million in losses over the first ten years.

KRYGIER "REASONABLE ASSERTION" #3: TAX REFORM RELIEF

As part of the S&A, Empire agrees to file revised retail rate schedule tariff sheets in an appropriate timeframe that would allow such tariff sheets to take effect October 1, 2018.

It is OPC's position that Empire's rates are no longer just and reasonable. Shoehorning the tax reform relief as an Empire concession is offensive and, sets a dangerous precedent for all future regulatory actions related to the Tax Cuts and Jobs Act of 2017. To be clear, it appears as though Empire's ratepayers will only receive the reduced rates that they are entitled to in five months, *if* they take on exponentially more risk. To clarify this assumption, OPC sent DR-2031 which ask and Empire answers as follows:

> Question:
>
> Will Empire continue its "voluntary filing of revised tariffs" in ER-2018-0228 if the Commission rejects its application in Case No. EO-2018-0092? If not, please explain in detail why it will not?
>
> Response:
>
> The commitment to the filing of tariffs reflected in the Non-Unanimous Stipulation and Agreement is linked to the package of items reflected therein (see

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[15] Id. at Pg. 8-9.
[16] See GM-1 and GM-2.

paragraph 2 of the Non-Unanimous Stipulation and Agreement). **If Empire's application in EO-2018-0092 is rejected, Empire will need to examine the circumstances existing at that point in time before it will be in a position to decide what actions it will take in Case No. ER-2018-0228**. (emphasis added)

Responsible person(s): Christopher D. Krygier[17]

Empire should revise its tariffs to reflect the tax reform changes regardless of this case and it should do so immediately. The inclusion of this provision in the S&A and the subsequent data request response from Empire is disappointing, but not surprising.

KRYGIER "REASONABLE ASSERTION" #4:

[17] See GM-3

[18] Irfan, U. and J. Zarracina (2018) The stunningly lopsided growth of wind power in the US, in 4 maps. Vox. https://www.vox.com/energy-and-environment/2018/5/2/17290880/wind-power-renewable-energy-maps
[19] Ibid.

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Conservation Impact

OPC has also raised concerns as it relates to potential conservation impacts on protected bird and bat populations in Missouri. As such, OPC has sent a number of data requests inquiring into Empire's project guidelines as it pertains to US Fish and Wildlife approval. For example, OPC DR-2028 includes the following question and answer:

> Question:
>
> Regarding OPC DR-2027, please provide a narrative explanation as to what the Company intends to do to remediate any concerns raised by either the Missouri Department of Conservation and/or the U.S. Fish and Wildlife regarding specific site locations for the Company's proposed wind farm(s) in Missouri.
>
> Response:
>
> Attached as "Attachment OPC 2028 - MO OPC Recommendations.xlsx" is a table indicating recommendations from the Missouri OPC, and Empire's Project Guidelines that indicate our intentions to follow the USFWS Land-based Wind Energy Guidelines. These guidelines are not final as we will also continue working with the individual counties as we progress forward in developing our sites. We are following the Bird & Bat Work Plan developed with USF&W and MDC agreement. Any items of concern will be addressed in the final design of the wind farm, using determinations from the ongoing studies.
>
> Post Construction Mortality Monitoring will be approached using Eagle Conservation Plan/Habitat Conservation Plans or Bird Bat Conservation Strategies.
>
> Responsible person(s): Timothy N. Wilson[21]

[21] See GM-4

OPC is cognizant that more wind projects will likely begin in Missouri moving forward. As such, OPC believes it is good policy to consider all relevant factors in properly siting wind farms. A considerable amount of time and taxpayer money has been spent to preserve Missouri's conservation heritage. If wind farms are sited too quickly or result in fatalities of vulnerable or protected animal populations Empire can be liable for financial penalties and potential enforced curtailment of generation which in turn could raise future prudency concerns.

OPC makes the following general "best practice" pre-site selection and post-construction mortality monitoring policy recommendations for all future wind projects:

Pre-Site Selection:

- At least a 1,000 foot buffer, between the wind farm and any woodland or forest;
- Confirmation from USF&W that wind farm has appropriate buffer between the wind facility and known eagle or vulnerable raptor nests;
- Pre-construction survey and monitoring analysis to assess risk of wind facility/project to wildlife (following USF&W Eagle Conservation Plan Guidance V2);
- Pre-construction survey and monitoring analysis to assess risk of wind facility/project to wildlife (following most recent Range-Wide Indiana Bat Summer Survey Guidance); and
- All documents (monitoring plan, site selection, pre and post construction monitoring) shall be developed with USF&W protocols.

Post Construction Mortality Monitoring:

- Follow post-construction mortality monitoring of birds and bats following "Evidence of Absence" approach (Evidence of absence V2 software user guide);
- Provide annual mortality data to MDC, USF&W, MoPSC, OPC;
- In order to handle specimens, obtain Missouri Wildlife Collector's permit;
- Report carcass of a Species of Conservation Concern within 48 hrs. to MDC;
- Report carcass of Federally Threatened or Endangered Species within 24 hrs. to USF&W;
- Report bald or golden eagle carcass to USF&W within 24 hrs; and

- All roadkill or livestock carcasses within project area will be removed to avoid attracting eagles or other birds of prey to the wind facility at least every 3 days.[22]

The recent introduction of House Bill No. 2634 which would prohibit the issuance of any certificate of convenience and necessity for the construction of wind energy turbines and other facilities until the Wind Energy Task Force issues a report to the General Assembly on the impacts of wind energy generation further supports OPC's recommendations moving forward.[23]

KRYGIER "REASONABLE ASSERTION" #5:
ASBURY REMAINS OPEN

As part of the S&A, Empire has agreed that Asbury shall not be retired at this time.

It is OPC's position that, consistent with Empire's 2016 depreciation study, Asbury should not be retired before 2035. The uncertainties surrounding the SPP markets reinforces this present position. OPC also supports the approximate $19 million Ash Landfill and Ash Conveyance System costs scheduled for 2018 as a reasonable cost for the benefit of a 200 MW dispatchable generation unit with at least 17 years of useful operating life.

OPC notes that the pending Asbury costs have been continuously overstated by Empire witnesses[24] and will likely be less than the $19 million based on pending the U.S. Environmental Protection Agency's ("EPA") coal ash rule revisions that are set to give State's more discretion in approving compliance plans.[25,26] Figure 1 shows the environmental coal ash expected costs, scope and implementation dates.

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[22] See GM-5.
[23] See GM-6.
[24] "This provision is important to Empire given that it will be required to make an immediate investment in the range of $20-$30 million dollars, and was only willing to do so if it could be sure that it would be fully recoverable in the future." Case No: EO-2018-0092 Affidavit of Christopher D. Krygier See p. 7, paragraph 15
[25] Patel, S. (2018) EPA sets schedule for potential ELG rule revision. POWER. http://www.powermag.com/epa-sets-schedule-for-potential-elg-rule-revision/
[26] Watson, B. (2018) House Energy Committee endorses coal ash bill. News Tribune. http://www.newstribune.com/news/news/story/2018/apr/19/house-energy-committee-endorses-coal-ash-bill/722624/

Table 1: Empire Response to Sierra Club data request 1-03

Budget	Scope	2018	2019	2020	2021
PA0034	Ash Landfill	5,783,000			
PA0035	Ash Conveyance System	13,018,000			
PA0038R	Ash Impoundment Closure (Retirement Dollars)	5,102,000			12,810,000

The costs related to "Ash Impoundment Closure (Retirement Dollars)" are sunk costs. That is, these are costs that will need to be paid regardless of when Asbury is closed. Including it as a "cost savings input" in the modeling and in the testimony of Empire's witnesses overstates the benefits that would actually be realized by ratepayers if this proposal were to move forward.

OTHER "PUBLIC INTEREST" PROVISIONS

Rate Case Moratorium

As part of the S&A, Empire has agreed that it shall not file tariffs seeking to implement a general rate case prior to April 1, 2019.

It is OPC's position that this is a non-commitment. The question and response in OPC DR-8048 confirms this:

> Question:
>
> Reference Krygier affidavit para. 13 – If this agreement is not approved by the Commission, when does Empire estimate that it would seek a change in rates, what would be the driver of this change in rates, and what is the estimated impact on rates that Empire would seek? Would the need for this change in rates be removed if this agreement is approved by the Commission?
>
> Response:
>
> Empire continues to make investments in its system that will drive a rate case at some point. However, the Company is still determining the timing of its next general rate case and the potential impact on rates.
>
> **Regardless of whether or not the Stipulation is approved, Empire is required by statute to file a general rate case by October 2019 (approximately) for rates effective September 2020**. Additionally, Empire will have semi-annual changes in its Fuel Adjustment Clause.

> **<u>Approval of the Stipulation is not anticipated to remove any need for a rate increase</u>**. The Company has instead agreed to delay any such rate case in accordance with the terms of the Stipulation. (emphasis added)
>
> Responsible person(s): Christopher D. Krygier[27]

<u>Future proposal for non-residential access to renewable energy (aka "Green Tariff")</u>

As part of the S&A, Empire has agreed, as part of its next rate case, to propose a green tariff option to corporations that wish to demonstrate compliance with self-imposed sustainability commitments. Interested non-residential customers could elect to pay an additional premium in exchange for a portion of the Renewable Energy Credits ("RECs") received from the Wind Projects.

It is OPC's position that this commitment is only aspirational and will likely not result in the intended outcome—convincing corporate entities to shoulder some of the associated costs (risk) in exchange for RECs.

To illustrate this, consider these two excerpts regarding renewable energy procurement policy from two of the largest corporate renewable energy buyers:

<u>Walmart:</u>

> Renewable Energy Certificates (RECs) or other non-power instruments
>
> We want to do more than just shift around ownership (and marketing rights) of existing renewable energy, so we have made a decision that under normal circumstances, we prefer not to simply offset our non-renewable power by purchasing standalone renewable energy credits (RECs) or other certificates. While REC purchasing may allow us to more quickly say we are supplied by 100% renewable energy, it provides less certainty about the change we're making in the world.
>
> **<u>Walmart's preference is not to purchase standalone RECs to offset our nonrenewable power consumption for a number of reasons</u>**.[28] (emphasis added)

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[27] GM-7

[28] Walmart's Approach to Renewable Energy. https://cdn.corporate.walmart.com/eb/80/4c32210b44ccbae634ddedd18a27/walmarts-approach-to-renewable-energy.pdf

Google:

Meeting our principles

Given the background above, let's recall what Google seeks to accomplish with renewable energy purchases. There are two important goals:

- **Our purchases should be additional. This means they should actually help to create more renewable power**.
- Our investments should have the highest possible positive impact on the industry that they can.

Additionality is a tricky concept. Perhaps it is easiest to give an example of what's not additional. Imagine a power company built a wind farm many years ago. They built it because they thought it was good business at the time, but the fact that it was a renewable resource was not important to their decision. They currently sell the power into the grid, and they're happy with their investment. Moreover, this power company has no plans to build any more wind farms. One day, they learn that Google is looking to purchase renewable electricity. The power company figures it could sell Google the output of their wind farm; for their existing customers they would just make up the difference by buying some other source of energy, perhaps from the coal plant down the street.

In our view, this is not additional. We'd be handing money over for green electricity, but in the grand scheme of things, nothing would change. The carbon output of the whole system would be the same and no new renewable generation would get built.[29] (emphasis added)

Stated differently, the wind farm will already be built and operational irrespective of the corporate buyers. As seen above, entering into standalone REC agreements or contracts that do not result in additional renewable power is not the preferred outcome of at least two of the corporate renewable energy buyers in the United States. This sentiment is also consistent with the 4th Corporate Renewable Energy Buyers[30] Principle:

4. Access to new projects that reduce emissions **beyond business as usual**,

We would like our efforts to result in new renewable power generation. Pursuant to our desire to promote new projects, ensure our purchases add new capacity to the system, and that we buy the most cost-competitive renewable energy products, we seek the following . . . [31] (emphasis added)

[29] Google's Green PPAs: What, How, and Why (2013) http://static.googleusercontent.com/media/www.google.com/en//green/pdfs/renewable-energy.pdf

[30] As of January 2018, 72 companies have signed on to these principles, representing over 54 million MWh of annual demand. See also: https://buyersprinciples.org/about-us/

[31] Corporate Renewable Energy Buyers' Principles (2018) The Principles. https://buyersprinciples.org/principles/

For this provision to be substantively relevant, the germane green corporate buyers would already be committed to bearing these future costs.

Most Favored Nations Clause

The signatories to the S&A have agreed that they may request the Commission to extend to Empire's Missouri customers any concessions and/or conditions, or comparable value to such concessions and/or conditions obtained in Kansas or Arkansas. However, concessions shall not extend to:

- Conditions surrounding location preferences of proposed wind farms;
- Treatment of benefits associated with the Tax Cuts and Jobs Act of 2017
- Length of rate moratorium; and
- The magnitude of possible exposure to Empire's shareholder's under the Market Protection Provision.

It is OPC's position that the aforementioned carve-outs to the most favored nation clause render it largely hollow. The inclusion of such language does raise questions as to how such a clause would be interpreted if the Kansas or Arkansas Commission rejected Empire's proposal but Empire still continued to move forward. Such a "what-if" scenario is not unforeseeable. For example, the Kansas Corporation Commission ("KCC") has never allowed Empire to include hedging costs in its electric utility cost of service charged to Kansas ratepayers. The KCC, on February 4, 2008, in Docket No. 06-EPDE-1048-HED, issued its Order Denying Application stating:

> III. FINDINGS AND CONCLUSIONS
>
> 1. The Commission concurs with Staff's Memorandum filed in this matter and its determination that Empire's gas hedging program is incompatible with hedging programs currently approved and in place with respect to other public utilities regulated by the Commission. Therefore, the Commission finds that Empire's Application should be dismissed.
>
> The Commission further concurs with Staff's additional recommendations that: (1) Empire will pass no gains, losses, or costs related to its financial hedging activities to Kansas ratepayers through its Energy Cost Adjustment (ECA) mechanism; and (2) **No costs related to Empire's financial hedging activities will be included for rate determination in future proceedings before the Commission**. (emphasis added)

Kansas ratepayers have benefited from that order. Missouri ratepayers have borne unnecessary costs. More to the point, as it stands, no party to the corresponding Arkansas or Kansas Empire case have supported Empire's proposal or modeling assumptions with only the Arkansas Staff taking the neutral (and measured) position that it is premature to recommend anything until Empire has actual proposals for consideration.[32]

The Commission should be aware that, at least for Arkansas ratepayers, Empire has already publically committed to the following guarantees:

- Capital investment cost cap;
- Guarantee of eligibility for the Production Tax Credits ("PTCs");
- Guarantee of the capacity factor;
- Commitment on off-system energy sales margins and Renewable Energy Credit ("RECs) sales revenues; and
- A Most Favored Nations clause.[33]

At least four of the five provisions stated above are not explicitly included in the Missouri S&A including a:

- Capital investment cost cap;
- Guarantee of the capacity factor;
- Commitment on off-system energy sales margins and Renewable Energy Credit ("RECs) sales revenues; and
- Most Favored Nations clause that is not predicated on explicit exemptions.

Of course, one could reasonably argue that the "capital investment cap" is not really a cap and the "guarantee of the capacity factor" is not really a guarantee if no numbers are attached to these "customer protections." No doubt, the lack of partners and contracts in hand have stalled settlement talk, at least in Arkansas.

[32] Arkansas Public Service Commission Docket No. 17-061-U Surrebuttal of John G. Athas p. 12, 11-20.
[33] Arkansas Public Service Commission Docket No. 17-061-U Rebuttal Testimony of Christopher D. Krygier p. 10, 2-10.

The Commission should also be aware that Oklahoma has entered into a S&A. The Commission should also be aware that the a hand-written statement is included in the signature block under the Oklahoma Public Utility Division for attorney Nastasha Scott as can be seen in figure 1 below.

Figure 1: Hand-written clause by the Oklahoma Public Utility Division Staff[34]

Dated: 4/2/18

THE PUBLIC UTILITY DIVISION

By: [signature]

Natasha Scott

THE ATTORNEY GENERAL

The hand-written statements says:

> The Public Utility Division stipulates with the exception of a return on the Asbury facility as stated in the third sentence on the third paragraph of paragraph H.[35]

The referenced sentence in the stipulation is as follows:

> The Stipulating Parties further agree that the return on that regulatory asset shall be the Company's weighted average cost of capital and such return on that regulatory asset shall take effect beginning in the next general rate proceeding.[36]

Based on this filed document, it appears as though if Asbury were to be prematurely retired, the parties to the Oklahoma S&A, including Empire, have agreed that Empire will not receive a return "on" the Asbury plant moving forward. OPC shares this position.

All of this is brought to the Commission's attention to underscore the uncertainty surrounding the terms in this case. This has been made all the more complicated by Empire providing "Most Favored Nation Clauses" with different terms to Missouri, Oklahoma and Arkansas (presumably, Kansas' most favored nation clause is forthcoming). Which begs a more philosophical question, "if every state is most favored, is any state?" At least insofar as what has been put forward to date, it does appear as though Arkansas is "more favored."

[34] See GM-8.
[35] Ibid.
[36] Ibid.

BEFORE THE CORPORATION COMMISSION OF OKLAHOMA

APPLICATION OF PUBLIC SERVICE COMPANY OF OKLAHOMA ("PSO") FOR APPROVAL OF THE COST RECOVERY OF THE WIND CATCHER ENERGY CONNECTION PROJECT; A DETERMINATION THERE IS A NEED FOR THE PROJECT; APPROVAL FOR FUTURE INCLUSION IN BASE RATES COST RECOVERY OF PRUDENT COSTS INCURRED BY PSO FOR THE PROJECT; APPROVAL OF A TEMPORARY COST RECOVERY RIDER; APPROVAL OF CERTAIN ACCOUNTING PROCEDURES REGARDING FEDERAL PRODUCTION TAX CREDITS; WAIVER OF OAC 165:35-38-5(e); AND SUCH OTHER RELIEF THE COMMISSION DEEMS PSO IS ENTITLED	)	CAUSE NO. PUD 201700267

FILED
APR 24 2018
COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

JOINT STIPULATION AND SETTLEMENT AGREEMENT

COME NOW Public Service Company of Oklahoma ("PSO" or the "Company") and the undersigned parties to the above entitled cause and present the following Joint Stipulation and Settlement Agreement ("Joint Stipulation") for Oklahoma Corporation Commission ("Commission") review and approval as their compromise and settlement of all issues in this proceeding between the parties to this Joint Stipulation ("Stipulating Parties"). The Stipulating Parties represent to the Commission that this Joint Stipulation represents a fair, just and reasonable settlement of these issues, that the terms and conditions of the Joint Stipulation are in the public interest, and the Stipulating Parties urge the Commission to issue an Order in this Cause adopting and approving this Joint Stipulation.

It is hereby stipulated and agreed by and between the Stipulating Parties as follows:

TERMS OF THE JOINT STIPULATION AND SETTLEMENT AGREEMENT

Effective with the Commission's order approving of all elements of this Joint Stipulation, the Stipulating Parties request that the Commission issue an order finding that the Company's 30% ownership share of the Wind Catcher Energy Connection Project which, on a total Project basis consists of a 2000 MW wind generation facility located in the Oklahoma panhandle and an approximately 350-mile generation interconnection tie-line to deliver the wind energy to the grid near Tulsa, reasonably meets the Company's need for a low-cost, diverse source of energy. The Stipulating Parties further request that the Commission approve the Company's request to include any PTCs deferred for ratemaking purposes in a regulatory liability that is included in rate base, or earns interest at the Company's pre-tax Weighted Average Cost of Capital (WACC) from when

the Project commences commercial operation. The Stipulating Parties further request that the Commission approve the Company's request to include any unrealized PTCs in a deferred tax asset included in rate base in the event the PTCs cannot be fully utilized in a given year.

The Stipulating Parties request that the Commission defer any decision on final cost recovery to a cause opened by an application filed by the company pursuant to Chapter 70 of the Commission's rules or otherwise subsequent to the incurrence of such costs of the Project. In the foregoing application, the Company should submit amounts subject to recovery for Commission audit and review.

1. **Terms**

(a) Cost Cap. The Company commits to a total Company cost cap on capital investment for the Wind Facility, the Gen-Tie and all SPP-assigned generation interconnection costs (collectively the "Project") which shall be the lesser of (i) 103% of estimated cost, which is $1.399 billion, including AFUDC, and (ii) $2,331/kW (the "Cost Cap"). Costs above the Cost Cap shall not be recoverable in rates and costs below the Cost Cap shall have no presumption of prudency.

(b) PTC Guarantee. The Company will provide a guarantee, for cost recovery purposes, that the Project will be eligible to receive 100% of the value of the Federal Production Tax Credits ("PTCs") for the actual output from the Wind Facility. Except as provided in Attachment 2, the Stipulating Parties agree that the Company will be excused from this PTC Guarantee to the extent that it is prevented by any change in law which shall be defined as changes in federal law pertaining to PTC's, including changes to the Internal Revenue Code.

(c) Net Capacity Factor Guarantee. The Company shall guarantee, for rate making purposes, a minimum net average capacity factor at the western bus-bar of 46% for each of the five consecutive five-year periods during the twenty five-year period of Project commercial operation. This means that, subject to ratable adjustment pursuant to the micro-siting process set forth below, the minimum net average capacity factor (46%) for PTCs measured at the western bus-bar is 12,105 GWh during each such five-year period and this amount will be adjusted downward to account for actual line losses for energy delivery at the eastern bus-bar.

Any make whole payment due from the Company at the end of each of the five consecutive five-year periods during the twenty-five year period of Project commercial operation will include incremental replacement energy costs and PTCs which will flow to customers through the Fuel Cost Adjustment Rider, and the calculation for determining amounts due to customers under this guarantee shall be as set out in Attachment 1 hereto.

If the number of turbines comprising the completed Wind Farm is reduced as a result of the micro-siting process, the Stipulating Parties agree that the number of turbines comprising the Wind Farm will not decline by more than twenty turbines

and that the nameplate capacity of the completed Wind Farm will not decline by more than fifty megawatts.

(d) Net Benefits Guarantee. The Company will provide a net benefits guaranty as set forth in Attachment 2 hereto.

(e) Incremental Off-System Energy Sales Margins. One hundred percent of the incremental off-system energy sales margins that would not have occurred but for the Project and net proceeds from the sale of RECs associated with the Project will flow to customers through the Company's Fuel Cost Adjustment Rider, notwithstanding any provision of the Company's Fuel Cost Adjustment Rider that would otherwise allocate a portion of such incremental off-system energy sales to the Company. The calculation for determining incremental off-system energy margins from the Project shall be as set out in Attachment 3 hereto.

(f) Most Favored Nations. The Company shall notify the Stipulating Parties if terms more favorable to all customer classes related to (i) the Net Capacity Factor Guarantee, (ii) the PTC Guarantee, (iii) the Cost Cap percentage, (iv) the Net Benefits Guaranty, (v) the Company's share of any cumulative annual deferred tax asset balance cap for the Project or (vi) such other terms, not described above, that are agreed to by Southwestern Electric Power Company ("SWEPCO") in any of its regulatory proceedings in Arkansas, Louisiana or Texas seeking approval of the Project, whether through settlement or order issued by any such jurisdiction under which SWEPCO will proceed to construct the Project, and the respective terms of this Joint Stipulation shall be deemed to be modified to incorporate those more favorable terms to the extent that they are not unique to SWEPCO jurisdictions. With respect to this Most Favored Nations provision as it applies to any Net Benefits Guarantee, it will be limited to the formulas used to calculate net customer benefits and not to any inputs. The Company's notice to the Stipulating Parties as set forth above will include a copy of the terms that SWEPCO agreed to in the other jurisdictions and, if applicable, a copy of any regulatory orders issued in the other jurisdictions under which SWEPCO is proceeding construct the Project, and a discussion by the Company of their applicability to this Joint Stipulation.

(g) Retail Customers. This Joint Stipulation is applicable only to the Company's retail customers and all references to "customers" herein shall mean the Company's retail customers.

(h) Allocation of Revenue Requirement to Customer Classes. The revenue requirement of the Project will be allocated among the Company's customer classes based on demand. For demand metered customer classes, the class revenue requirement will be billed to customers on a kW demand basis.

(i) Oklahoma Allocation. The Stipulating Parties agree that the Oklahoma jurisdictional share of the costs of the Project will not increase if any jurisdictions in which SWEPCO operates do not participate in the Project.

(j) Deferred Tax Asset Balance Cap. The Company may earn a return on any deferred tax asset balance related to the Project over the first thirteen calendar years. The Company will earn a return on the deferred tax asset balance using a combination of (i) its then approved weighted average cost of capital on sixty percent of any deferred tax asset balance and (ii) its then applicable cost of long term debt on forty percent of any deferred tax asset balance. The deferred tax asset balance shall not exceed a cumulative annual average of two hundred forty million dollars in any calendar year which is 30% of the Project cumulative deferred tax asset balance cap. The Company shall not earn a return on any deferred tax asset balance after the thirteenth calendar year. The Stipulating Parties acknowledge that the Company does not earn a return of any deferred tax asset balance.

(k) Development Costs. The Company agrees that it will not seek recovery of development costs associated with the Project unless the Commission approves this Joint Stipulation.

2. Additional Regulatory Provisions.

The Stipulating Parties agree to the additional regulatory provisions set forth in Attachments 4, 5, 6 and 7 hereto.

3. Discovery.

As between and among the Stipulating Parties, all requests for discovery are deemed satisfied.

4. General Reservations.

The Stipulating Parties represent and agree that, except as specifically otherwise provided herein:

(a) This Joint Stipulation represents a negotiated settlement for the purpose of compromising and settling all issues which were raised relating to this proceeding.

(b) Each of the undersigned counsel of record affirmatively represents that he or she has full authority to execute this Joint Stipulation on behalf of his or her client(s).

(c) None of the signatories hereto shall be prejudiced or bound by the terms of this Joint Stipulation in the event the Commission does not approve this Joint Stipulation.

(d) Nothing contained herein shall constitute an admission by any party that any allegation or contention in these proceedings as to any of the foregoing matters is true or valid and shall not in any respect constitute a determination by the Commission as to the merits of any allegations or contentions made in this proceeding.

(e) The Stipulating Parties agree that the provisions of this Joint Stipulation are the result of extensive negotiations, and the terms and conditions of this Joint Stipulation are interdependent. The Stipulating Parties agree that settling the issues in this Joint Stipulation is in the public interest and, for that reason, they have entered into this Joint Stipulation to settle among themselves the issues in this Joint Stipulation. This Joint Stipulation shall not constitute nor be cited as a precedent nor deemed an admission by any Stipulating Party in any other proceeding except as necessary to enforce its terms before the Commission or any state court of competent jurisdiction. The Commission's decision, if it enters an order consistent with this Joint Stipulation, will be binding as to the matters decided regarding the issues described in this Joint Stipulation, but the decision will not be binding with respect to similar issues that might arise in other proceedings. A Stipulating Party's support of this Joint Stipulation may differ from its position or testimony in other causes. To the extent there is a difference, the Stipulating Parties are not waiving their positions in other causes. Because this is a stipulated agreement, the Stipulating Parties are under no obligation to take the same position as set out in this Joint Stipulation in other dockets.

(f) The Company, Wal-Mart Stores East, LP and Sam's East, LP agree that the Joint Stipulation and Settlement Agreement entered into by them and dated March 5, 2018 is hereby terminated and of no further force and effect.

4. Non Severability.

The Stipulating Parties stipulate and agree that the agreements contained in this Joint Stipulation have resulted from negotiations among the Stipulating Parties and are interrelated and interdependent. The Stipulating Parties hereto specifically state and recognize that this Joint Stipulation represents a balancing of positions of each of the Stipulating Parties in consideration for the agreements and commitments made by the other Stipulating Parties in connection therewith. Therefore, in the event that the Commission does not approve and adopt the terms of this Joint Stipulation in total and without modification or condition (provided, however, that the affected party or parties may consent to such modification or condition), this Joint Stipulation shall be void and of no force and effect, and no Stipulating Party shall be bound by the agreements or provisions contained herein. The Stipulating Parties agree that neither this Joint Stipulation nor any of the provisions hereof shall become effective unless and until the Commission shall have entered an Order approving all of the terms and provisions as agreed by the parties to this Joint Stipulation and such order becomes final and non-appealable.

Signatures appear on the following page

WHEREFORE, on this 20th day of April, 2018, the Stipulating Parties hereby agree to this Joint Stipulation and Settlement Agreement as their negotiated settlement of this proceeding with respect to all issues which were raised with respect to this Application, and respectfully request the Commission to issue an Order approving this Joint Stipulation and Settlement Agreement.

PUBLIC UTILITY DIVISION
OKLAHOMA CORPORATION COMMISSION

By: ______________________________
Brandy Wreath, Director of Public Utility Division

PUBLIC SERVICE COMPANY OF OKLAHOMA

By: ______________________________
Jack P. Fite
Joann S. Worthington
Attorney for Public Service Company of Oklahoma

Michael Hunter
ATTORNEY GENERAL OF THE
STATE OF OKLAHOMA

By: ______________________________
Dara Derryberry
Assistant Attorney General

OKLAHOMA INDUSTRIAL ENERGY CONSUMERS

By: ______________________________
Thomas P. Schroedter
Hall, Estill, Hardwick, Gable, Golden & Nelson

WAL-MART STORES EAST, LP and SAM'S EAST, INC.

By: ______________________________
Rick D. Chamberlain

ONETA POWER, LLC

By: ______________________________
Cheryl Vaught

PLAINS AND EASTERN CLEAN LINE OKLAHOMA, LLC

By: ______________________________
James A. Roth

OKLAHOMA MUNICIPAL POWER AUTHORITY

By: ______________________________
Randall Elliott

WINDFALL COALITION, LLC

By: ______________________________
David E. Keglovits

NOVUS WINDPOWER, LLC

By: ______________________________
Patrice Douglas

KIOWA POWER PARTNERS, LLC

By: ______________________________
Kenneth H. Blakely

TRI-COUNTY ELECTRIC COOPERATIVE, INC.

By: ______________________________
James R. Fletcher

GOLDEN SPREAD ELECTRIC COOPERATIVE, INC.

By: ______________________________
J. Eric Turner

SOUTH CENTRAL MCN L.L.C.

By: ______________________________
Deborah Thompson

ATTACHMENT 1

Details for Determining the Net Capacity Factor Guarantee

Following the fifth, tenth fifteenth, twentieth and twenty-fifth years after the Project reaches commercial operation, the Company will sum the total energy output from the Wind Facility for the previous five years.

- If the Company's 30% share of that energy equals or exceeds a minimum net average capacity factor at the Project's western bus-bar of 46% ("Minimum Net Average Capacity Factor"), no other calculations are made and no net capacity factor guarantee payment is necessary.

- If the Company's 30% share of that energy is less than the Minimum Net Average Capacity Factor, the following ratio will be taken: (the Company's 30% share of the energy equivalent of the output of the Project at the Minimum Net Average Capacity Factor – the Company's 30% share of the actual energy output at the Project's western bus-bar)/the Company's 30% share of the actual energy output at the Project's western bus-bar. This ratio will be rounded to 5 decimal places. The Company's 30% share of the hourly actual MWh energy output of the Wind Facility, as measured at the eastern bus-bar of the Gen-Tie after accounting for actual line losses for each hour of the five-year period, will be multiplied by this ratio to determine the additional energy for the customer credit. These hourly MWh energy values will be individually multiplied by the hourly, day-ahead Locational Marginal Price (LMP) at this location. The hourly dollar amounts will then be summed for the total five-year period to arrive at the energy value portion of the customer credit. In addition, the five-year total GWh shortfall energy at the western bus-bar of the Gen-Tie will be multiplied by the average, grossed up, PTC credit, provided, however, that the PTCs will be grossed up only for the first ten Calendar Years that the Project is in commercial operation when it is producing PTCs, and not for subsequent periods.

ATTACHMENT 2

Details for Determining Project Net Benefit for Customers During the Initial Ten Years of Project Commercial Operation

To perform an evaluation of the Project's net benefits during the initial ten years of commercial operation, the Company will perform the calculation set forth below annually until the Project has been in base rates for ten years. The ten-year period starts on the date the Project is placed in base rates and ends exactly ten years after that date.

Net Benefit for Customers = Fuel Savings + Project Capacity Value + PTCs + Minimum Net Capacity Factor Guarantee Payments + RECs Value + Carbon Savings – Project Revenue Requirement

Net Benefits for Customers: If the net benefit for customers at the end of the ten-year period is positive, that means that customers have received net savings and, therefore, the Company does not owe customers any compensation under this customer net benefit guarantee. If the net benefit for customers at the end of the ten-year period is negative due to any reason or combination of reasons including but not limited to low market energy prices or changes in law that result in a reduction to or elimination of the value of the PTCs, that means that customers have incurred a net cost and, therefore, the Company will compensate customers for such net cost under this customer net benefit guarantee. A regulatory liability will be established if customers are owed a credit under this calculation. The regulatory liability will be amortized in retail rates over the remaining period of commercial operation (years 11-25).

Fuel Savings: The Oklahoma retail portion of the fuel and energy savings achieved by the Project during the first ten years based upon a comparison of a Base Case to a Modified Base Case for each hour of the period. The Base Case shall represent the thermal and non-thermal generating units set forth on Table 1 hereto, which represents for purposes hereof the thermal and non-thermal generating units that the Company currently owns or controls under power purchase agreements, or is projected to own and control (collectively, the Company's Existing and Forecasted Generation"), and including the Company's share of energy from the Project. In the Modified Base Case, the Company will remove the Project and re-dispatch the Company's Existing and Forecasted Generation to replace the removed Project generation. The difference in costs (including all variable unit production costs) between the Base Case and Modified Base Case will be used to determine the fuel savings attributable to the Project. Both the Base Case and the Modified Base Case will incorporate the following assumptions:

- Unit operating characteristics, constraints and limits including such inputs as heat rate coefficients, unit availability, start-up costs, tolling fees, non-fuel operating and maintenance costs, and fuel prices. The inputs used in this analysis will be the same type of inputs that the Company uses in its generation market offers submitted to the SPP Integrated Marketplace.

- Actual integrated hourly operating reserve requirements.

- To the extent that the Company's Existing and Forecasted Generation in the Modified Base Case is insufficient to replace the Project generation, the Company will assume in its calculations that the marginal unit is used to serve the insufficiency.

Project Capacity Value: $4.3 million annually over the ten-year period, as filed.

PTCs: The Company's portion of the PTCs grossed up for taxes, either passed through or held in a regulatory liability and determined annually, and any credits to customers resulting from the Company's PTC guarantee.

Net Capacity Factor Guarantee: Any payments made by the Company for the net capacity factor guarantee for each of the two five-year periods of commercial operation during the period of PTC eligibility.

RECs Value: Any Company renewable energy credit value received, or inventory value at the prevailing market price, resulting from the Project.

Carbon Savings: Any costs on the production of carbon that actually would have been incurred by the Company's fossil generation fleet as a result of a Federal mandate imposing a cost on the production of carbon from fossil generation but for the Project.

Project Revenue Requirement: The Company's Revenue Requirement of the Project, including both the Wind Farm and Gen-Tie line that are in rates.

Table 1 – Company's Existing and Forecasted Generation

			Capacity	2021-2030 Period	
Unit Name[B]	**State**	**Fuel Type**	**MW**	**Additions**	**Retirements[A]**
458 CC PSO 1	OK	CC-Gas	375	1/1/2022	
458 CC PSO 2	OK	CC-Gas	375	1/1/2025	
458 CC PSO 3	OK	CC-Gas	375	1/1/2027	
Comanche 1	OK	CC-Gas	260		
Northeastern 1	OK	CC-Gas	472		
Northeastern 2	OK	ST-Gas	440		
Northeastern 3	OK	Coal	462		12/31/2026
Oklaunion 1	TX	Coal	105		
Riverside 1	OK	ST-Gas	453		
Riverside 2	OK	ST-Gas	454		
Riverside 3	OK	CT-Gas	80		
Riverside 4	OK	CT-Gas	80		
Southwestern 1	OK	ST-Gas	75		12/31/2021
Southwestern 2	OK	ST-Gas	79		12/31/2023
Southwestern 3	OK	ST-Gas	311		
Southwestern 4	OK	CT-Gas	85		
Southwestern 5	OK	CT-Gas	85		
Tulsa 2	OK	ST-Gas	162		
Tulsa 4	OK	ST-Gas	157		

Weleetka 4	OK	CT-Gas	65	12/31/2022
Weleetka 5	OK	CT-Gas	60	12/31/2022
Weleetka 6	OK	CT-Gas	60	12/31/2022
Calpine 1	OK	PPA	260	
Exelon 1	OK	PPA	519	2/28/2022
Exelon 2	OK	PPA	261	2/28/2022
Balko	OK	Wind PPA	199.8	
Blue Canyon V	OK	Wind PPA	99	10/31/2029
Elk City	OK	Wind PPA	98.9	1/31/2030
Goodwell	OK	Wind PPA	200	
Minco	OK	Wind PPA	99.2	12/31/2030
Seiling	OK	Wind PPA	198.9	
Sleeping Bear	OK	Wind PPA	94.5	
Weatherford	OK	Wind PPA	147	12/31/2025
Wind Catcher	**OK**	**Wind PPA**	**570**	

Notes:

A. Units without retirement dates indicated are assumed on-line through the 2021-2030 period.

B. Units listed will be utilized independent of future modifications to retirement dates of existing units or commercial operation dates of new units.

ATTACHMENT 3

Incremental Off-System Energy Sales Margins

Incremental off-system energy sales margins should be determined as follows:

- When total off-system energy sales are less than or equal to the Project generation in any given hour, the total off-system energy sales margins will be 100% to the benefit of customers.

- When off-system energy sales are greater than the Project generation in any given hour the off-system energy sales margins for the MWh equivalent to the Project generation in an hour will be 100% to the benefit of customers and the incremental off-system energy sales margins above that level will be treated as existing off-system energy sales with margin sharing at the then current allocation.

ATTACHMENT 4

Oklahoma Regulatory Provisions

A. WCECA Rider. The Stipulating Parties request that the WCECA Rider attached hereto as Attachment 7 be adopted and become effective with a Commission Order approving this Stipulation, which Rider shall include the following provisions:

1. As set forth in the Company's application, the Stipulating Parties agree to include any PTCs deferred for rate-making purposes in a regulatory liability that is included in rate base and which earns a return at the company's pre-tax weighted average cost of capital (WACC), including during the period the Rider is in effect after the Project commences commercial operation.

2. The revenue requirement for Rider WCECA will not include ARO costs. Recovery of ARO costs shall be addressed in the Company's next general rate case.

3. The depreciation rate for the Wind Facility shall be 3.815% until such time that it is modified in the Company's next general rate case.

4. The depreciation rate for the Gen-Tie Line shall be 2% until such time that it is modified in the Company's next general rate case.

5. The Company shall submit a depreciation study to support any depreciation rate change requests related to the Project in the Company's next general rate case, and shall submit a comprehensive dismantlement study to justify any requested dismantlement costs, whether related to an ARO or included in any such changed depreciation rates for the Wind Facility, Gen-Tie or any other account.

6. Amounts collected through the Rider WCECA are subject to refund based upon the Commission's final determination of prudency.

B. Reporting Provisions.

1. The Company shall report semi-annually to the Stipulating Parties on the status of Project construction and on any anticipated delay in the Project commencing commercial operation.

2. The Company shall notify the Stipulating Parties when the Project commences commercial operation.

3. The Company shall report to PUD during the construction phase on the Project's impact on employment in Oklahoma.

C. Base Rate Case. The Company shall file a base rate case within one-hundred eighty days of the Project reaching commercial operation.

D. Renewable Energy Credits. The Stipulating Parties agree with the modifications to the Green Energy Choice Tariff set forth in Attachment 6.

ATTACHMENT 5

[Reserved]

ATTACHMENT 6

Revised Green Energy Choice Tariff

AVAILABILITY

This Green Energy Choice Tariff (GECT) (or WindChoice) is available to customers taking service under the Company's standard rate schedules who wish to support the Company's procurement of beneficial environmental attributes also known as Renewable Energy Certificates (RECs) derived from Oklahoma-based renewable wind energy resources. Participation in this program is limited by the availability of RECs from renewable resources currently available to the Company. If the total kWh under contract under this tariff equals or exceeds the availability of RECs from existing resources available to the Company, the Company may suspend the availability of this tariff to new participants. Subscribing customers pay for the value of RECs, and related administrative, advertising, education and participant recruitment costs. All other provisions of the standard pricing schedules shall apply.

CONDITIONS OF SERVICE

Customers choosing to support the generation of electricity from Oklahoma-based renewable wind energy resources may purchase REC's equivalent to a percentage of total monthly billed usage (kWh). Customers may only purchase in whole percentages up to 100 percent of their monthly load.

A REC or beneficial environmental attribute shall be defined as a unit of non-power attribute related to the environment benefit of an offset of emissions or pollutants to the air associated with one MWh of renewable electrical generation.

Green energy kWh subscriptions shall be determined at the time the customer enters service under this Tariff and can be updated for each contract year, or twice within the contract period.

Customers may apply for this schedule at any time. In the event of over subscription, the Company will maintain a waiting list of customers requesting subscription. Customers on the waiting list will only be provided service under this schedule if and when additional GECT kWh are made available through the discontinuation of a current subscriber, or an increase in available kWh under the tariff.

Customers may not enroll if they have a time-payment agreement in effect, have received two or more final disconnect notices, or have been disconnected for non-payment within the last 12 months. The Company may terminate service under this tariff to participating customers who become delinquent in any amount owed to the Company with a 30 day notice.

MONTHLY RATE

Monthly charges for energy and demand to serve the customer's total load shall be determined according to the Company's standard rate schedule under which the customer would otherwise be served. In addition to the monthly charges under the applicable standard rate schedule under which the customer takes service, the customer shall also pay the following rate for each kWh under contract. Over subscription in any month does not carry over.

Rate per Subscribed kWh
$0.0038

The rate will be updated on an annual basis in an administrative approval process to be effective with the first billing cycle of the January billing month. The REC price in the annual GECT rate calculation will be the most recent 12-month weighted average, REC transactional market price. The Company will provide customers at least 30-days' advance notice of any change in the rate. At such time, the customer may modify or cancel their automatic monthly purchase agreement. Any cancellation will be effective at the end of the current billing period when notice is provided.

BILLING ADJUSTMENTS

Fuel Cost Adjustment:
All kWh shall be subject to the monthly FA Rider.

Tax Adjustment:
The additional monthly charges computed under this tariff shall be subject to adjustment under the provisions of the Company's Tax Adjustment Rider.

TERM AND CONTRACT

The term for all subscribers is a minimum of one year. Subscription to this tariff shall be automatically renewed at the end of each term unless termination from the program is specifically requested with at least 30 days' notice to the customer. If for any reason the subscriber is no longer eligible to subscribe or cancels the subscription during the term of the contract, they will not be eligible to reapply for subscription for one year.
The Company may terminate service under this tariff to participating customers who become delinquent in any amount owed to the Company with a 30 day notice of termination.

SPECIAL TERMS AND CONDITIONS

This tariff is subject to the Company's Terms and Conditions of Service and all provisions of the standard rate schedule under which the customer takes service, including all payment provisions.

Service under this tariff provides for the purchase of renewable attributes of renewable energy currently available to the Company. Subscribers have the sole right to make claim to the renewable attributes they purchase under this tariff. The Company will retire all renewable attributes purchased under this tariff on behalf of Subscribers.

Effective with commercial operation of the Wind Catcher Energy Connection Project ("Project") customers in Service Levels 1 through 3 may elect to receive RECs generated specifically from the Project, up to the Project prorated allocation for these service levels, at a rate equivalent to the most recent 12-month weighted average, REC transactional market price. Upon request, the Company will provide an attestation setting forth that the RECs provided under this special term are not double-counted and are retired internally by the Company.

ATTACHMENT 7

Rider WCECA

PURPOSE

The Wind Catcher Energy Connection Asset (WCECA) Rider is designed to recover return on and of the wind asset facility and operation and maintenance expenditures after the facility commences commercial operation as approved in Cause No. PUD 201700XXX.

This schedule is applicable to and becomes part of each PSO jurisdictional rate schedule. This schedule is applicable to energy consumption of retail customers and to facilities, premises and loads of such retail customers.

The WCECA Factors will include the Oklahoma jurisdictional portion of the project once it is placed in commercial operation and will be determined using the most recently approved production allocation factors for PSO. The WCECA Factors will be calculated in accordance with the following methodology and will be applied to each kWh sold.

ANNUAL DETERMINATION

The initial period for the WCECA Factors shall be the forecasted initial 12 months of operation after the commercial operation date of the wind project.

A True-up Adjustment shall be calculated and reflected in the following year's WCECA Factor calculation. The True-up Adjustment shall be defined as the difference between the actual WCECA costs for the prior year and the revenue received from the WCECA Factors.

WCECA Factors shall be submitted to the Director of the PUD and shall be accompanied by a set of workpapers sufficient to fully document the calculations of the WCECA Factors including any potential True-up Adjustment.

Amounts collected through the Rider WCECA are subject to refund based upon the Commission's final determination of prudency

The WCECA Factors shall be calculated as shown below:

WCECARR	=	(((WCAP – ADEP)*ROR + DEPX + O&M) * RBAF) – (PTC *RBAF) + TU/Forecasted Base Revenues or kWh Sales by Major Rate Class, as appropriate.
WCAP	=	Average project plant in service balance for the forecasted calendar year
ADEP	=	Average accumulated depreciation balance for the forecasted calendar year based on the depreciation rates in effect for PSO
DEPX	=	Depreciation expense for the forecast period based on the depreciation rates PURPOSE

O&M	=	Operations and Maintenance expense for the forecasted period
ROR	=	Return on plant in service which includes interest on debt, shareholder return and related income taxes based on a pre-tax rate of return specific to the WCECA Rider of X.XX%, with the weighted equity component rate grossed-up by the gross conversion factor specific to income taxes currently in effect
RBAF	=	Production Demand Allocation Factor for each major rate class from the Company's cost allocation study provided in the most recent rate case. The allocators are as follows:

Major Rate Class	Production Allocators
Residential - Secondary	XX.XX%
Commercial -Secondary *	XX.XX%
SL 3 - Primary	XX.XX%
SL 2 – Primary Sub	X.XX%
SL 1 - Transmission	X.XX%

*Includes Lighting

PTC	=	Federal Production Tax Credits
TU	=	The true-up amount to correct for any variance between the actual WCECA costs for the prior year and the revenue received from the WCECA Factors. The calculation will be done on an annual basis, and will determine the true-up for the following year.

ANNUAL REVIEW

The Company will submit to the Director of the PUD the requested WCECA Annual Factors approximately 90 days preceding the requested effective date. The requested WCECA Factors will become effective, upon PUD approval, with the first billing cycle of the requested billing month.

TERM

The WCECA Factors will be determined on an annual basis until the generating facility is included in retail base rates of the Company.in effect PSO.

BEFORE THE CORPORATION COMMISSION OF OKLAHOMA

APPLICATION OF PUBLIC SERVICE COMPANY OF OKLAHOMA ("PSO") FOR APPROVAL OF THE COST RECOVERY OF THE WIND CATCHER ENERGY CONNECTION WIND FACILITY AND THE WIND CATCHER ENERGY CONNECTION GENERATION TIE-LINE; APPROVAL OF A TEMPORARY COST RECOVERY RIDER; APPROVAL OF CERTAIN ACCOUNTING PROCEDURES REGARDING FEDERAL PRODUCTION TAX CREDITS; WAIVER OF OAC 165:35-34-1(a) AND 35-38-5(e); AND SUCH OTHER RELIEF THE COMMISSION DEEMS PSO IS ENTITLED	)	CAUSE NO. PUD 20100267

FILED
APR 24 2018
COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

SUPPLEMENT TESTIMONY IN SUPPORT OF

JOINT STIPULATION AND SETTLEMENT

STEVEN L. FATE

FOR

PUBLIC SERVICE COMPANY OF OKLAHOMA

TESTIMONY INDEX

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EXHIBITS

EXHIBIT	DESCRIPTION
EXHIBIT SLF-1S	Joint Stipulation and Settlement between the Oklahoma Industrial Energy Consumers, Wal-Mart Stores East, LP and Sam's East, Inc., and the Public Service Company of Oklahoma

I. INTRODUCTION

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

A. My name is Steven L. Fate. I am Vice President, Regulatory and Finance for the Public Service Company of Oklahoma ("PSO" or "Company"). My business address is 212 East 6th Street, Tulsa, Oklahoma 74119.

Q. DID YOU PREVIOUSLY SUBMIT TESTIMONY IN THIS PROCEEDING?

A. Yes. I previously filed Direct Testimony on July 31, 2017, and Rebuttal Testimony on December 22, 2017.

II. PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to present, explain, and support the non-unanimous Joint Stipulation and Settlement Agreement ("Settlement Agreement") between Wal-Mart Stores East, LP and Sam's East Inc. ("Wal-Mart"), Oklahoma Industrial Energy Consumers ("OIEC"), and PSO ("Stipulating Parties") (Exhibit SLF-S1) as being a fair, just, and reasonable settlement of the customer and cost recovery issues in this cause, and that the Commission should issue an approval of the Settlement Agreement under 17 O.S. § 286(C).

III. DETERMINATION OF NEED

Q. PLEASE DESCRIBE THE WIND CATCHER ENERGY CONNECTION PROJECT ("PROJECT").

1 A. The Project is a combination of a 2,000 MW nameplate wind generation facility ("Wind
2 Facility") constructed in the Oklahoma Panhandle and an associate 756 kV dedicated
3 Generation Tie Line ("Gen-Tie") that allows the energy to be delivered directly to PSO's
4 load zone thereby significantly reducing congestion over the life of the Project and
5 securing significant benefits for PSO's customers. The Project is scheduled to begin
6 operation in December 2020. PSO's ownership share of the Project is 30%.

7 Q. WHAT NEED HAS THE COMPANY IDENTIFIED AND HOW DOES THE PROJECT
8 MEET THE NEED?

9 A. The Company identified a need to provide customers low cost, congestion- and
10 curtailment-free, renewable energy to lower customers' rates, diversify the energy supply
11 portfolio serving customers, and reduce the future need for generation capacity additions.
12 In 2021, with the addition of the Project, PSO's energy supply mix is expected to be
13 approximately 40% wind. The Project is expected to save PSO's customers over $2
14 billion nominal over its 25 year service life.

15 Q. DOES PSO'S INTEGRATED RESOURCE PLAN ("IRP") SUPPORT THE NEED FOR
16 NEW WIND RESOURCES WHICH ARE MET BY THE PROJECT?

17 A. Yes. The update to PSO's 2015 IRP that resulted in part from the extension of the federal
18 Production Tax Credits ("PTCs") indicates that the acceleration of 600 MW of wind
19 generation to an in service date of 2021 to take advantage of the phasing out of federal
20 production tax credits would provide the lowest reasonable cost of service to customers.[1]

---

[1] PSO 2017 Integrated Resource Plan dated October 2017, at page 6.

1 Q. WHAT STEPS HAS THE COMPANY TAKEN TO ASSURE CUSTOMER
2 BENEFITS?
3 A. The contractual protections in the fixed cost Membership Interests Purchase Agreement
4 ("MIPA") for the Wind Facility and the Engineering, Procurement and Construction
5 ("EPC") agreement for the Gen-Tie, when combined with the Project guarantees outlined
6 in the Settlement Agreement, result in a significant reduction of risks relative to
7 traditional generation projects and provides substantial assurances that customers will
8 benefit from the Project throughout its life.
9
10 IV. CUSTOMER ASSURANCES
11 Q. PLEASE DESCRIBE THE GENERAL TERMS OF THE SETTLEMENT
12 AGREEMENT.
13 A. The Settlement Agreement is a comprehensive settlement that fully settles and resolves
14 all issues raised in this docket by the Stipulating Parties. With two of the signatories
15 representing PSO customer interests, it further confirms that the settlement benefits
16 customers, is a fair, just and reasonable settlement and that the terms and conditions are
17 in the public interest and should be approved by the Commission.
18 Q. PLEASE SUMMARIZE THE CUSTOMER GUARANTEES AND ASSURANCES
19 CONTAINED IN THE SETTLEMENT AGREEMENT.
20 A. The major terms in the Settlement Agreement fall into the following categories: (1) cost
21 caps and savings assurances, (2) project performance, and (3) other regulatory
22 assurances.

1 Q. DOES THE SETTLEMENT AGREEMENT PROVIDE A COST CAP ON THE
2 PROJECT?
3 A. Yes. Under Section 1(a) the Stipulating Parties have agreed that the investment cost for
4 the Wind Facility, Gen-Tie, and all SPP-assigned generation interconnection costs will
5 not exceed 103% of the initial estimated cost, the lesser of $1.399 billion or $2,331/kW
6 including AFUDC. Investment costs above the cap will not be recoverable in rates.
7 Costs below the cap have no presumption of prudence, meaning the Company will have
8 to request a determination of prudence in a future docket after the project becomes
9 commercial and the final costs are submitted for review and audit.
10 The level of the cap is substantially lower than the 110% (excluding AFUDC)
11 contained in the Company's rebuttal testimony or the 107.5% (excluding AFUDC)
12 contained in the Joint Stipulation and Settlement dated March 5, 2017, between the
13 Company and Wal-Mart. It also includes AFUDC, which specifically addresses the issue
14 of the potential cost impact of a significant Gen-Tie delay as raised by PUD witness
15 Mossburg. The Cost Cap also addresses concerns expressed in the testimonies of
16 Attorney General ("AG") witness Bohrmann, Public Utility Division ("PUD") witness
17 Mossburg, and OIEC witness Norwood.
18 Q. DOES THE SETTLEMENT AGREEMENT ENSURE CUSTOMERS WILL BENEFIT
19 FROM FEDERAL PRODUCTION TAX CREDITS?
20 A. Yes. In Section 1(b) the Company has agreed to provide a guarantee, for cost recovery
21 purposes, that the Project will be eligible to receive 100% of the value of the PTCs for the
22 actual output from the Wind Facility, and will only be excused from this guarantee by a
23 change in federal law pertaining to the PTCs, including changes to the Internal Revenue

1 Code. Importantly, in the unlikely event that there is a change in federal law affecting the
2 actual value of PTCs, customers are protected through the calculation of the Net Benefits
3 Guarantee described later. The PTC Guarantee in combination with the Net Benefit
4 Guarantee address concerns expressed in the testimonies of OIEC witness Norwood and
5 PUD witness Mossburg.

6 Q. DOES THE SETTLEMENT AGREEMENT PROVIDE A NET CAPACITY FACTOR
7 GUARANTEE FOR THE PROJECT?

8 A. Yes. Section 1(c) provides for a minimum net average capacity factor guarantee at the
9 western bus-bar of 46% over the full 25 year life of the Project, in five consecutive five-
10 year periods. This equates to a minimum of 12,105 GWH during each five-year period.
11 Further, the Company provides assurance of a similar delivery commitment at the eastern
12 end point to address any concern of the availability of the Gen-Tie. The Net Capacity
13 Factor Guarantee responds to the concerns of PUD witness Mossburg, OIEC witness
14 Norwood, and AG witness Bohrmann.

15 Q. DOES THE SETTLEMENT AGREEMENT PROVIDE A MECHANISM TO
16 DETERMINE PROJECT NET BENEFITS FOR CUSTOMERS DURING THE
17 INITIAL TEN YEARS OF PROJECT COMMERCIAL OPERATION?

18 A. Yes. Attachment 2 sets forth in detail the methodology to demonstrate whether customers
19 have received a net benefit over the first 10 years of the Project. To determine whether
20 customers received a net benefit, the net benefit calculation includes: Project Revenue
21 Requirement, Fuel Savings, PTC value, Carbon Savings, deferred capacity value, and
22 Renewable Energy Credit value. The calculation is performed in year eleven of the
23 Project. If a benefit is not demonstrated, the Company will create a regulatory liability in

1 the amount owed customers and amortize the liability in retail rates over the remaining
2 period of commercial operation (years 11-25).

3 This provision is a significant guarantee that addresses many concerns of risks to
4 customers that have been expressed by the parties to this case. Importantly, if for some
5 reason the completion of the Gen-Tie line is delayed, or if natural gas prices are
6 extraordinarily low, or PTC savings do not materialize as forecasted, or savings from
7 avoided carbon costs are not realized, this guarantee takes all these factors, among others,
8 into account to ensure customers benefit from the Project.

9 Q. DOES THE SETTLEMENT AGREEMENT PROVIDE FOR OFF-SYSTEMS SALES
10 MARGINS FOR THE BENEFIT OF PSO CUSTOMERS?

11 A. Yes. In Section 1(e) the Stipulating Parties have agreed to credit customers 100% of the
12 off-system energy sales margins that would not have occurred but for the Project, as well
13 as the net proceeds from the sale of RECs associated with the Project. This guarantee is
14 consistent with the Company's proposal made in rebuttal testimony and addresses a
15 recommendation made in testimony by OIEC witness Norwood.

16 Q. DOES THE SETTLEMENT AGREEMENT PROVIDE A MOST FAVORED
17 NATIONS PROVISION TO PROVIDE FURTHER PROTECTION TO PSO
18 CUSTOMERS?

19 A. Yes. Section 1(f) sets forth additional protections by agreeing to incorporate any term
20 that is agreed to by Southwestern Electric Power Company ("SWEPCO") in any of its
21 regulatory proceedings in Arkansas, Louisiana, or Texas, whether through settlement or
22 order, into the respective terms of the Settlement Agreement to the extent that the agreed
23 to term is beneficial to PSO customers. The only limitation to this provision is that the

1 more favorable terms are not unique to SWEPCO jurisdictions. This assurance effectively
2 responds to the testimony and recommendations of AG witness Bohrmann and PUD
3 witness Mossburg.

4 Q. DOES THE SETTLEMENT AGREEMENT PROVIDE ANY PROTECTION TO PSO'S
5 CUSTOMERS IN THE EVENT OTHER SWEPCO JURISDICTIONS DO NOT
6 APPROVE THE PROJECT?

7 A. Yes. Section 1(i) assures that in the event other jurisdictions in which SWEPCO is
8 seeking Project approval do not participate in the Project, that the Oklahoma
9 jurisdictional share of the Project will not be increased.

10 Q. DOES THE SETTLEMENT AGREEMENT PROVIDE FOR A CAP FOR THE
11 BALANCE OF A DEFERRED TAX ASSET?

12 A. Yes. Section 1(j) limits the Company's ability to earn a return on any deferred tax asset
13 balance to a cumulative annual average balance of two hundred forty million dollars
14 (which is 30% of the Project cumulative deferred tax asset balance cap) over the first
15 thirteen years of the Project. Because the Company will pass the full benefit of the PTCs
16 to customers as they are generated, a deferred tax asset may be created in any given year
17 if the Company does not have the tax appetite to fully utilize the PTCs in the same year
18 they are generated. The cap further limits the return on the deferred tax asset to the then
19 approved weighted average cost of capital on 60% of the asset and the then applicable
20 cost of debt on the remaining 40% of the asset balance. This provision is consistent with
21 the prior Joint Stipulation and Settlement entered into with Wal-Mart.

1 Q. DOES THE SETTLEMENT AGREEMENT ASSURE CUSTOMERS WILL NOT
2 HAVE TO BEAR THE PROJECT DEVELOPMENT COSTS IF THE COMMISSION
3 DOES NOT APPROVE THE SETTLEMENT AGREEMENT?
4 A. Yes. Consistent with PSO's prior testimony, Section 1(k) states that the Company is
5 agreeing through this provision to not seek recovery of Project development costs unless
6 the Commission approves the Settlement Agreement.
7 Q. DOES THE SETTLEMENT AGREEMENT ADDRESS THE TIMING OF A BASE
8 RATE CASE SUBSEQUENT TO THE START OF THE PROJECT'S COMMERCIAL
9 OPERATION?
10 A. Yes. To address concerns that the Company is not sufficiently incentivized to eliminate
11 the Wind Catcher Energy Connection Asset ("WCECA") Rider in a timely manner, in
12 Attachment 4, Section C, the Stipulating Parties have agreed that the Company will file a
13 base rate case within 180 days of the Project reaching commercial operation.
14 Q. ARE THERE REPORTING REQUIREMENTS IN THE SETTLEMENT
15 AGREEMENT?
16 A. Yes. Attachment 4, Section B provides for semi-annual reporting on the status of the
17 Project construction and the impact on employment in Oklahoma.
18 Q. DOES THE SETTLEMENT AGREEMENT ADDRESS THE NEEDS OF SOME
19 CUSTOMERS TO BE ABLE TO NOMINATE THEIR PURCHASE OF RENEWABLE
20 ENERGY CREDITS ("REC'S") FROM THE PROJECT?
21 A. Yes. The addition of a Special Term and Condition to PSO's current Green Energy
22 Choice Tariff contained in Attachment 6 of the Settlement Agreement, sets forth the
23 ability of Service Levels 1, 2, and 3 customers to select a purchase of RECs from the

1 Project and receive attestations that certify the RECs thereby allowing participating
2 customers to use the RECs for internal and external compliance purposes.
3 Q. PLEASE SUMMARIZE THE EFFECT OF THESE KEY CUSTOMER PROTECTION
4 PROVISIONS IN THE SETTLEMENT AGREEMENT.
5 A. This unprecedented suite of enhanced guarantees represents a secure deal for customers
6 and ensures customers will benefit for decades from an Oklahoma-based, low-cost,
7 congestion- and curtailment-free, diversified resource.
8 Q. IN ADDITION TO THE SUBSTANTIAL CUSTOMER BENEFITS IS THERE A
9 BROADER ECONOMIC BENEFIT EXPECTED FROM THE PROJECT?
10 A. Yes. While the Commission should base its decision on the substantial projected benefits
11 for PSO's customers, it is also important to note that the $4.5 billion Project is expected
12 to create over $2 billion in economic stimulus to the State during construction, generate
13 over $300 million in property tax revenues and create approximately 300 full-time
14 equivalent jobs in Oklahoma during the life of the Project.[2]
15
16 V. COST RECOVERY
17 Q. DOES THE SETTLEMENT AGREEMENT PROVIDE A MECHANISM FOR COST
18 RECOVERY?
19 A. Yes. The Settlement Agreement provides for the creation of the temporary WCECA
20 Rider and the contemporaneous recovery of the Project costs. Importantly, as reflected in

[2] Hearing Exhibit 14, "Employment and Economic-Stimulus Benefits of the Wind Catcher Energy Connection Project," prepared by The Brattle Group, page 2.

1 Attachment 4, Section A, costs recovered through the WCECA Rider are subject to
2 refund based upon the Commission's future final determination of prudency.
3 Q. UNDER THE SETTLEMENT AGREEMENT WHEN WILL A FINAL
4 DETERMINATION OF COST RECOVERY OCCUR?
5 A. Under the terms of the Settlement Agreement the Stipulating Parties have requested the
6 Commission defer any decision on final cost recovery to a cause opened by the Company
7 subsequent to the start of the Project's commercial operation.
8

9 <u>VI. CONCLUSION</u>

10 Q. DO YOU BELIEVE THE SETTLEMENT AGREEMENT IS IN THE BEST INTEREST
11 OF PSO'S CUSTOMERS?
12 A. Yes. The Stipulating Parties engaged in extensive due diligence and negotiations to reach
13 this resolution which provides both customer savings and customer protections through
14 securing a reliable low cost renewable energy resource. The Project is expected to
15 provide over $2 billion nominal net benefits to customers, lowering the cost to service
16 customers as well as further diversifying PSO's energy supply. Reliable delivery of the
17 low cost energy is also assured due to the construction of a dedicated Gen-Tie line, which
18 reduces congestion and curtailment costs for the benefit of customers.
19 The Commission should find that the Settlement Agreement is in the public
20 interest because it ensures customer savings, resolves disputed issues in this case, is fair
21 and reasonable to customers, and represents substantial and material guarantees by the
22 Company that further protect customers.
23 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

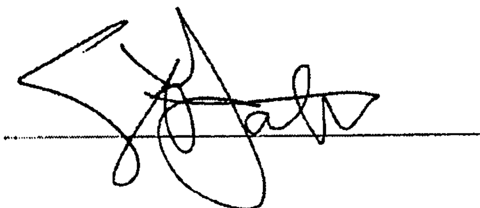
1 A. Yes, it does.

AFFIDAVIT OF STEVEN L. FATE

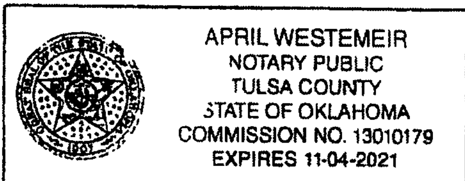
STATE OF OKLAHOMA)

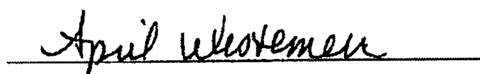
COUNTY OF TULSA)

On the 24 day of April, 2018, before me appeared Steven L. Fate, to me personally known, who, being by me first duly sworn, states that he is the Vice President, Regulatory and Finance of the Public Service Company of Oklahoma and acknowledges that he has read the above and foregoing document and believes that the statements therein are true and correct to the best of his information, knowledge and belief.



Subscribed and sworn to befo0re me this 24 day of April, 2018.





My commission expires: 11/04/2021

EXHIBIT SLF-1S

BEFORE THE CORPORATION COMMISSION OF OKLAHOMA

APPLICATION OF PUBLIC SERVICE COMPANY OF OKLAHOMA ("PSO") FOR APPROVAL OF THE COST RECOVERY OF THE WIND CATCHER ENERGY CONNECTION PROJECT; A DETERMINATION THERE IS A NEED FOR THE PROJECT; APPROVAL FOR FUTURE INCLUSION IN BASE RATES COST RECOVERY OF PRUDENT COSTS INCURRED BY PSO FOR THE PROJECT; APPROVAL OF A TEMPORARY COST RECOVERY RIDER; APPROVAL OF CERTAIN ACCOUNTING PROCEDURES REGARDING FEDERAL PRODUCTION TAX CREDITS; WAIVER OF OAC 165:35-38-5(e); AND SUCH OTHER RELIEF THE COMMISSION DEEMS PSO IS ENTITLED	CAUSE NO. PUD 201700267

JOINT STIPULATION AND SETTLEMENT AGREEMENT

COME NOW Public Service Company of Oklahoma ("PSO" or the "Company") and the undersigned parties to the above entitled cause and present the following Joint Stipulation and Settlement Agreement ("Joint Stipulation") for Oklahoma Corporation Commission ("Commission") review and approval as their compromise and settlement of all issues in this proceeding between the parties to this Joint Stipulation ("Stipulating Parties"). The Stipulating Parties represent to the Commission that this Joint Stipulation represents a fair, just and reasonable settlement of these issues, that the terms and conditions of the Joint Stipulation are in the public interest, and the Stipulating Parties urge the Commission to issue an Order in this Cause adopting and approving this Joint Stipulation.

It is hereby stipulated and agreed by and between the Stipulating Parties as follows:

TERMS OF THE JOINT STIPULATION AND SETTLEMENT AGREEMENT

Effective with the Commission's order approving of all elements of this Joint Stipulation, the Stipulating Parties request that the Commission issue an order finding that the Company's 30% ownership share of the Wind Catcher Energy Connection Project which, on a total Project basis consists of a 2000 MW wind generation facility located in the Oklahoma panhandle and an approximately 350-mile generation interconnection tie-line to deliver the wind energy to the grid near Tulsa, reasonably meets the Company's need for a low-cost, diverse source of energy. The Stipulating Parties further request that the Commission approve the Company's request to include any PTCs deferred for ratemaking purposes in a regulatory liability that is included in rate base, or earns interest at the Company's pre-tax Weighted Average Cost of Capital (WACC) from when

the Project commences commercial operation. The Stipulating Parties further request that the Commission approve the Company's request to include any unrealized PTCs in a deferred tax asset included in rate base in the event the PTCs cannot be fully utilized in a given year.

The Stipulating Parties request that the Commission defer any decision on final cost recovery to a cause opened by an application filed by the company pursuant to Chapter 70 of the Commission's rules or otherwise subsequent to the incurrence of such costs of the Project. In the foregoing application, the Company should submit amounts subject to recovery for Commission audit and review.

1. **Terms**

(a) Cost Cap. The Company commits to a total Company cost cap on capital investment for the Wind Facility, the Gen-Tie and all SPP-assigned generation interconnection costs (collectively the "Project") which shall be the lesser of (i) 103% of estimated cost, which is $1.399 billion, including AFUDC, and (ii) $2,331/kW (the "Cost Cap"). Costs above the Cost Cap shall not be recoverable in rates and costs below the Cost Cap shall have no presumption of prudency.

(b) PTC Guarantee. The Company will provide a guarantee, for cost recovery purposes, that the Project will be eligible to receive 100% of the value of the Federal Production Tax Credits ("PTCs") for the actual output from the Wind Facility. Except as provided in Attachment 2, the Stipulating Parties agree that the Company will be excused from this PTC Guarantee to the extent that it is prevented by any change in law which shall be defined as changes in federal law pertaining to PTC's, including changes to the Internal Revenue Code.

(c) Net Capacity Factor Guarantee. The Company shall guarantee, for rate making purposes, a minimum net average capacity factor at the western bus-bar of 46% for each of the five consecutive five-year periods during the twenty five-year period of Project commercial operation. This means that, subject to ratable adjustment pursuant to the micro-siting process set forth below, the minimum net average capacity factor (46%) for PTCs measured at the western bus-bar is 12,105 GWh during each such five-year period and this amount will be adjusted downward to account for actual line losses for energy delivery at the eastern bus-bar.

Any make whole payment due from the Company at the end of each of the five consecutive five-year periods during the twenty-five year period of Project commercial operation will include incremental replacement energy costs and PTCs which will flow to customers through the Fuel Cost Adjustment Rider, and the calculation for determining amounts due to customers under this guarantee shall be as set out in Attachment 1 hereto.

If the number of turbines comprising the completed Wind Farm is reduced as a result of the micro-siting process, the Stipulating Parties agree that the number of turbines comprising the Wind Farm will not decline by more than twenty turbines

and that the nameplate capacity of the completed Wind Farm will not decline by more than fifty megawatts.

(d) Net Benefits Guarantee. The Company will provide a net benefits guaranty as set forth in Attachment 2 hereto.

(e) Incremental Off-System Energy Sales Margins. One hundred percent of the incremental off-system energy sales margins that would not have occurred but for the Project and net proceeds from the sale of RECs associated with the Project will flow to customers through the Company's Fuel Cost Adjustment Rider, notwithstanding any provision of the Company's Fuel Cost Adjustment Rider that would otherwise allocate a portion of such incremental off-system energy sales to the Company. The calculation for determining incremental off-system energy margins from the Project shall be as set out in Attachment 3 hereto.

(f) Most Favored Nations. The Company shall notify the Stipulating Parties if terms more favorable to all customer classes related to (i) the Net Capacity Factor Guarantee, (ii) the PTC Guarantee, (iii) the Cost Cap percentage, (iv) the Net Benefits Guaranty, (v) the Company's share of any cumulative annual deferred tax asset balance cap for the Project or (vi) such other terms, not described above, that are agreed to by Southwestern Electric Power Company ("SWEPCO") in any of its regulatory proceedings in Arkansas, Louisiana or Texas seeking approval of the Project, whether through settlement or order issued by any such jurisdiction under which SWEPCO will proceed to construct the Project, and the respective terms of this Joint Stipulation shall be deemed to be modified to incorporate those more favorable terms to the extent that they are not unique to SWEPCO jurisdictions. With respect to this Most Favored Nations provision as it applies to any Net Benefits Guarantee, it will be limited to the formulas used to calculate net customer benefits and not to any inputs. The Company's notice to the Stipulating Parties as set forth above will include a copy of the terms that SWEPCO agreed to in the other jurisdictions and, if applicable, a copy of any regulatory orders issued in the other jurisdictions under which SWEPCO is proceeding construct the Project, and a discussion by the Company of their applicability to this Joint Stipulation.

(g) Retail Customers. This Joint Stipulation is applicable only to the Company's retail customers and all references to "customers" herein shall mean the Company's retail customers.

(h) Allocation of Revenue Requirement to Customer Classes. The revenue requirement of the Project will be allocated among the Company's customer classes based on demand. For demand metered customer classes, the class revenue requirement will be billed to customers on a kW demand basis.

(i) Oklahoma Allocation. The Stipulating Parties agree that the Oklahoma jurisdictional share of the costs of the Project will not increase if any jurisdictions in which SWEPCO operates do not participate in the Project.

(j) Deferred Tax Asset Balance Cap. The Company may earn a return on any deferred tax asset balance related to the Project over the first thirteen calendar years. The Company will earn a return on the deferred tax asset balance using a combination of (i) its then approved weighted average cost of capital on sixty percent of any deferred tax asset balance and (ii) its then applicable cost of long term debt on forty percent of any deferred tax asset balance. The deferred tax asset balance shall not exceed a cumulative annual average of two hundred forty million dollars in any calendar year which is 30% of the Project cumulative deferred tax asset balance cap. The Company shall not earn a return on any deferred tax asset balance after the thirteenth calendar year. The Stipulating Parties acknowledge that the Company does not earn a return of any deferred tax asset balance.

(k) Development Costs. The Company agrees that it will not seek recovery of development costs associated with the Project unless the Commission approves this Joint Stipulation.

2. Additional Regulatory Provisions.

The Stipulating Parties agree to the additional regulatory provisions set forth in Attachments 4, 5, 6 and 7 hereto.

3. Discovery.

As between and among the Stipulating Parties, all requests for discovery are deemed satisfied.

4. General Reservations.

The Stipulating Parties represent and agree that, except as specifically otherwise provided herein:

(a) This Joint Stipulation represents a negotiated settlement for the purpose of compromising and settling all issues which were raised relating to this proceeding.

(b) Each of the undersigned counsel of record affirmatively represents that he or she has full authority to execute this Joint Stipulation on behalf of his or her client(s).

(c) None of the signatories hereto shall be prejudiced or bound by the terms of this Joint Stipulation in the event the Commission does not approve this Joint Stipulation.

(d) Nothing contained herein shall constitute an admission by any party that any allegation or contention in these proceedings as to any of the foregoing matters is true or valid and shall not in any respect constitute a determination by the Commission as to the merits of any allegations or contentions made in this proceeding.

(e) The Stipulating Parties agree that the provisions of this Joint Stipulation are the result of extensive negotiations, and the terms and conditions of this Joint Stipulation are interdependent. The Stipulating Parties agree that settling the issues in this Joint Stipulation is in the public interest and, for that reason, they have entered into this Joint Stipulation to settle among themselves the issues in this Joint Stipulation. This Joint Stipulation shall not constitute nor be cited as a precedent nor deemed an admission by any Stipulating Party in any other proceeding except as necessary to enforce its terms before the Commission or any state court of competent jurisdiction. The Commission's decision, if it enters an order consistent with this Joint Stipulation, will be binding as to the matters decided regarding the issues described in this Joint Stipulation, but the decision will not be binding with respect to similar issues that might arise in other proceedings. A Stipulating Party's support of this Joint Stipulation may differ from its position or testimony in other causes. To the extent there is a difference, the Stipulating Parties are not waiving their positions in other causes. Because this is a stipulated agreement, the Stipulating Parties are under no obligation to take the same position as set out in this Joint Stipulation in other dockets.

(f) The Company, Wal-Mart Stores East, LP and Sam's East, LP agree that the Joint Stipulation and Settlement Agreement entered into by them and dated March 5, 2018 is hereby terminated and of no further force and effect.

4. Non Severability.

The Stipulating Parties stipulate and agree that the agreements contained in this Joint Stipulation have resulted from negotiations among the Stipulating Parties and are interrelated and interdependent. The Stipulating Parties hereto specifically state and recognize that this Joint Stipulation represents a balancing of positions of each of the Stipulating Parties in consideration for the agreements and commitments made by the other Stipulating Parties in connection therewith. Therefore, in the event that the Commission does not approve and adopt the terms of this Joint Stipulation in total and without modification or condition (provided, however, that the affected party or parties may consent to such modification or condition), this Joint Stipulation shall be void and of no force and effect, and no Stipulating Party shall be bound by the agreements or provisions contained herein. The Stipulating Parties agree that neither this Joint Stipulation nor any of the provisions hereof shall become effective unless and until the Commission shall have entered an Order approving all of the terms and provisions as agreed by the parties to this Joint Stipulation and such order becomes final and non-appealable.

Signatures appear on the following page

WHEREFORE, on this 20th day of April, 2018, the Stipulating Parties hereby agree to this Joint Stipulation and Settlement Agreement as their negotiated settlement of this proceeding with respect to all issues which were raised with respect to this Application, and respectfully request the Commission to issue an Order approving this Joint Stipulation and Settlement Agreement.

PUBLIC UTILITY DIVISION
OKLAHOMA CORPORATION COMMISSION

By: ______________________________
Brandy Wreath, Director of Public Utility Division

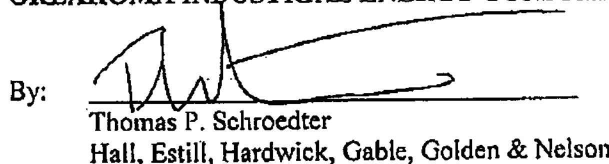
PUBLIC SERVICE COMPANY OF OKLAHOMA

By: ______________________________
Jack P. Fite
Joann S. Worthington
Attorney for Public Service Company of Oklahoma

Michael Hunter
ATTORNEY GENERAL OF THE STATE OF OKLAHOMA

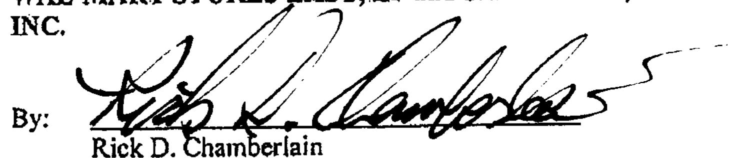
By: ______________________________
Dara Derryberry
Assistant Attorney General

OKLAHOMA INDUSTRIAL ENERGY CONSUMERS



By: ______________________________
Thomas P. Schroedter
Hall, Estill, Hardwick, Gable, Golden & Nelson

WAL-MART STORES EAST, LP and SAM'S EAST, INC.



By: ______________________________
Rick D. Chamberlain

ONETA POWER, LLC

By: ______________________________
Cheryl Vaught

PLAINS AND EASTERN CLEAN LINE OKLAHOMA, LLC

By: ______________________________
James A. Roth

OKLAHOMA MUNICIPAL POWER AUTHORITY

By: ______________________________
Randall Elliott

WINDFALL COALITION, LLC

By: ______________________________
David E. Keglovits

NOVUS WINDPOWER, LLC

By: ______________________________
Patrice Douglas

KIOWA POWER PARTNERS, LLC

By: ______________________________
Kenneth H. Blakely

TRI-COUNTY ELECTRIC COOPERATIVE, INC.

By: ________________________________
James R. Fletcher

GOLDEN SPREAD ELECTRIC COOPERATIVE, INC.

By: ________________________________
J. Eric Turner

SOUTH CENTRAL MCN L.L.C.

By: ________________________________
Deborah Thompson

ATTACHMENT 1

Details for Determining the Net Capacity Factor Guarantee

Following the fifth, tenth fifteenth, twentieth and twenty-fifth years after the Project reaches commercial operation, the Company will sum the total energy output from the Wind Facility for the previous five years.

- If the Company's 30% share of that energy equals or exceeds a minimum net average capacity factor at the Project's western bus-bar of 46% ("Minimum Net Average Capacity Factor"), no other calculations are made and no net capacity factor guarantee payment is necessary.

- If the Company's 30% share of that energy is less than the Minimum Net Average Capacity Factor, the following ratio will be taken: (the Company's 30% share of the energy equivalent of the output of the Project at the Minimum Net Average Capacity Factor – the Company's 30% share of the actual energy output at the Project's western bus-bar)/the Company's 30% share of the actual energy output at the Project's western bus-bar. This ratio will be rounded to 5 decimal places. The Company's 30% share of the hourly actual MWh energy output of the Wind Facility, as measured at the eastern bus-bar of the Gen-Tie after accounting for actual line losses for each hour of the five-year period, will be multiplied by this ratio to determine the additional energy for the customer credit. These hourly MWh energy values will be individually multiplied by the hourly, day-ahead Locational Marginal Price (LMP) at this location. The hourly dollar amounts will then be summed for the total five-year period to arrive at the energy value portion of the customer credit. In addition, the five-year total GWh shortfall energy at the western bus-bar of the Gen-Tie will be multiplied by the average, grossed up, PTC credit, provided, however, that the PTCs will be grossed up only for the first ten Calendar Years that the Project is in commercial operation when it is producing PTCs, and not for subsequent periods.

ATTACHMENT 2

Details for Determining Project Net Benefit for Customers During the Initial Ten Years of Project Commercial Operation

To perform an evaluation of the Project's net benefits during the initial ten years of commercial operation, the Company will perform the calculation set forth below annually until the Project has been in base rates for ten years. The ten-year period starts on the date the Project is placed in base rates and ends exactly ten years after that date.

Net Benefit for Customers = Fuel Savings + Project Capacity Value + PTCs + Minimum Net Capacity Factor Guarantee Payments + RECs Value + Carbon Savings – Project Revenue Requirement

Net Benefits for Customers: If the net benefit for customers at the end of the ten-year period is positive, that means that customers have received net savings and, therefore, the Company does not owe customers any compensation under this customer net benefit guarantee. If the net benefit for customers at the end of the ten-year period is negative due to any reason or combination of reasons including but not limited to low market energy prices or changes in law that result in a reduction to or elimination of the value of the PTCs, that means that customers have incurred a net cost and, therefore, the Company will compensate customers for such net cost under this customer net benefit guarantee. A regulatory liability will be established if customers are owed a credit under this calculation. The regulatory liability will be amortized in retail rates over the remaining period of commercial operation (years 11-25).

Fuel Savings: The Oklahoma retail portion of the fuel and energy savings achieved by the Project during the first ten years based upon a comparison of a Base Case to a Modified Base Case for each hour of the period. The Base Case shall represent the thermal and non-thermal generating units set forth on Table 1 hereto, which represents for purposes hereof the thermal and non-thermal generating units that the Company currently owns or controls under power purchase agreements, or is projected to own and control (collectively, the Company's Existing and Forecasted Generation"), and including the Company's share of energy from the Project. In the Modified Base Case, the Company will remove the Project and re-dispatch the Company's Existing and Forecasted Generation to replace the removed Project generation. The difference in costs (including all variable unit production costs) between the Base Case and Modified Base Case will be used to determine the fuel savings attributable to the Project. Both the Base Case and the Modified Base Case will incorporate the following assumptions:

- Unit operating characteristics, constraints and limits including such inputs as heat rate coefficients, unit availability, start-up costs, tolling fees, non-fuel operating and maintenance costs, and fuel prices. The inputs used in this analysis will be the same type of inputs that the Company uses in its generation market offers submitted to the SPP Integrated Marketplace.

- Actual integrated hourly operating reserve requirements.

- To the extent that the Company's Existing and Forecasted Generation in the Modified Base Case is insufficient to replace the Project generation, the Company will assume in its calculations that the marginal unit is used to serve the insufficiency.

Project Capacity Value: $4.3 million annually over the ten-year period, as filed.

PTCs: The Company's portion of the PTCs grossed up for taxes, either passed through or held in a regulatory liability and determined annually, and any credits to customers resulting from the Company's PTC guarantee.

Net Capacity Factor Guarantee: Any payments made by the Company for the net capacity factor guarantee for each of the two five-year periods of commercial operation during the period of PTC eligibility.

RECs Value: Any Company renewable energy credit value received, or inventory value at the prevailing market price, resulting from the Project.

Carbon Savings: Any costs on the production of carbon that actually would have been incurred by the Company's fossil generation fleet as a result of a Federal mandate imposing a cost on the production of carbon from fossil generation but for the Project.

Project Revenue Requirement: The Company's Revenue Requirement of the Project, including both the Wind Farm and Gen-Tie line that are in rates.

Table 1 – Company's Existing and Forecasted Generation

			Capacity	2021-2030 Period	
Unit Name[B]	**State**	**Fuel Type**	**MW**	**Additions**	**Retirements[A]**
458 CC PSO 1	OK	CC-Gas	375	1/1/2022	
458 CC PSO 2	OK	CC-Gas	375	1/1/2025	
458 CC PSO 3	OK	CC-Gas	375	1/1/2027	
Comanche 1	OK	CC-Gas	260		
Northeastern 1	OK	CC-Gas	472		
Northeastern 2	OK	ST-Gas	440		
Northeastern 3	OK	Coal	462		12/31/2026
Oklaunion 1	TX	Coal	105		
Riverside 1	OK	ST-Gas	453		
Riverside 2	OK	ST-Gas	454		
Riverside 3	OK	CT-Gas	80		
Riverside 4	OK	CT-Gas	80		
Southwestern 1	OK	ST-Gas	75		12/31/2021
Southwestern 2	OK	ST-Gas	79		12/31/2023
Southwestern 3	OK	ST-Gas	311		
Southwestern 4	OK	CT-Gas	85		
Southwestern 5	OK	CT-Gas	85		
Tulsa 2	OK	ST-Gas	162		
Tulsa 4	OK	ST-Gas	157		

Weleetka 4	OK	CT-Gas	65	12/31/2022
Weleetka 5	OK	CT-Gas	60	12/31/2022
Weleetka 6	OK	CT-Gas	60	12/31/2022
Calpine 1	OK	PPA	260	
Exelon 1	OK	PPA	519	2/28/2022
Exelon 2	OK	PPA	261	2/28/2022
Balko	OK	Wind PPA	199.8	
Blue Canyon V	OK	Wind PPA	99	10/31/2029
Elk City	OK	Wind PPA	98.9	1/31/2030
Goodwell	OK	Wind PPA	200	
Minco	OK	Wind PPA	99.2	12/31/2030
Seiling	OK	Wind PPA	198.9	
Sleeping Bear	OK	Wind PPA	94.5	
Weatherford	OK	Wind PPA	147	12/31/2025
Wind Catcher	**OK**	**Wind PPA**	**570**	

Notes:

A. Units without retirement dates indicated are assumed on-line through the 2021-2030 period.

B. Units listed will be utilized independent of future modifications to retirement dates of existing units or commercial operation dates of new units.

ATTACHMENT 3

Incremental Off-System Energy Sales Margins

Incremental off-system energy sales margins should be determined as follows:

- When total off-system energy sales are less than or equal to the Project generation in any given hour, the total off-system energy sales margins will be 100% to the benefit of customers.

- When off-system energy sales are greater than the Project generation in any given hour the off-system energy sales margins for the MWh equivalent to the Project generation in an hour will be 100% to the benefit of customers and the incremental off-system energy sales margins above that level will be treated as existing off-system energy sales with margin sharing at the then current allocation.

ATTACHMENT 4

Oklahoma Regulatory Provisions

A. WCECA Rider. The Stipulating Parties request that the WCECA Rider attached hereto as Attachment 7 be adopted and become effective with a Commission Order approving this Stipulation, which Rider shall include the following provisions:

1. As set forth in the Company's application, the Stipulating Parties agree to include any PTCs deferred for rate-making purposes in a regulatory liability that is included in rate base and which earns a return at the company's pre-tax weighted average cost of capital (WACC), including during the period the Rider is in effect after the Project commences commercial operation.

2. The revenue requirement for Rider WCECA will not include ARO costs. Recovery of ARO costs shall be addressed in the Company's next general rate case.

3. The depreciation rate for the Wind Facility shall be 3.815% until such time that it is modified in the Company's next general rate case.

4. The depreciation rate for the Gen-Tie Line shall be 2% until such time that it is modified in the Company's next general rate case.

5. The Company shall submit a depreciation study to support any depreciation rate change requests related to the Project in the Company's next general rate case, and shall submit a comprehensive dismantlement study to justify any requested dismantlement costs, whether related to an ARO or included in any such changed depreciation rates for the Wind Facility, Gen-Tie or any other account.

6. Amounts collected through the Rider WCECA are subject to refund based upon the Commission's final determination of prudency.

B. Reporting Provisions.

1. The Company shall report semi-annually to the Stipulating Parties on the status of Project construction and on any anticipated delay in the Project commencing commercial operation.

2. The Company shall notify the Stipulating Parties when the Project commences commercial operation.

3. The Company shall report to PUD during the construction phase on the Project's impact on employment in Oklahoma.

C. Base Rate Case. The Company shall file a base rate case within one-hundred eighty days of the Project reaching commercial operation.

D. Renewable Energy Credits. The Stipulating Parties agree with the modifications to the Green Energy Choice Tariff set forth in Attachment 6.

ATTACHMENT 5

[Reserved]

ATTACHMENT 6

Revised Green Energy Choice Tariff

AVAILABILITY

This Green Energy Choice Tariff (GECT) (or WindChoice) is available to customers taking service under the Company's standard rate schedules who wish to support the Company's procurement of beneficial environmental attributes also known as Renewable Energy Certificates (RECs) derived from Oklahoma-based renewable wind energy resources. Participation in this program is limited by the availability of RECs from renewable resources currently available to the Company. If the total kWh under contract under this tariff equals or exceeds the availability of RECs from existing resources available to the Company, the Company may suspend the availability of this tariff to new participants. Subscribing customers pay for the value of RECs, and related administrative, advertising, education and participant recruitment costs. All other provisions of the standard pricing schedules shall apply.

CONDITIONS OF SERVICE

Customers choosing to support the generation of electricity from Oklahoma-based renewable wind energy resources may purchase REC's equivalent to a percentage of total monthly billed usage (kWh). Customers may only purchase in whole percentages up to 100 percent of their monthly load.

A REC or beneficial environmental attribute shall be defined as a unit of non-power attribute related to the environment benefit of an offset of emissions or pollutants to the air associated with one MWh of renewable electrical generation.

Green energy kWh subscriptions shall be determined at the time the customer enters service under this Tariff and can be updated for each contract year, or twice within the contract period.

Customers may apply for this schedule at any time. In the event of over subscription, the Company will maintain a waiting list of customers requesting subscription. Customers on the waiting list will only be provided service under this schedule if and when additional GECT kWh are made available through the discontinuation of a current subscriber, or an increase in available kWh under the tariff.

Customers may not enroll if they have a time-payment agreement in effect, have received two or more final disconnect notices, or have been disconnected for non-payment within the last 12 months. The Company may terminate service under this tariff to participating customers who become delinquent in any amount owed to the Company with a 30 day notice.

MONTHLY RATE

Monthly charges for energy and demand to serve the customer's total load shall be determined according to the Company's standard rate schedule under which the customer would otherwise be served. In addition to the monthly charges under the applicable standard rate schedule under which the customer takes service, the customer shall also pay the following rate for each kWh under contract. Over subscription in any month does not carry over.

Rate per Subscribed kWh
$0.0038

The rate will be updated on an annual basis in an administrative approval process to be effective with the first billing cycle of the January billing month. The REC price in the annual GECT rate calculation will be the most recent 12-month weighted average, REC transactional market price. The Company will provide customers at least 30-days' advance notice of any change in the rate. At such time, the customer may modify or cancel their automatic monthly purchase agreement. Any cancellation will be effective at the end of the current billing period when notice is provided.

BILLING ADJUSTMENTS

Fuel Cost Adjustment:
All kWh shall be subject to the monthly FA Rider.

Tax Adjustment:
The additional monthly charges computed under this tariff shall be subject to adjustment under the provisions of the Company's Tax Adjustment Rider.

TERM AND CONTRACT

The term for all subscribers is a minimum of one year. Subscription to this tariff shall be automatically renewed at the end of each term unless termination from the program is specifically requested with at least 30 days' notice to the customer. If for any reason the subscriber is no longer eligible to subscribe or cancels the subscription during the term of the contract, they will not be eligible to reapply for subscription for one year.
The Company may terminate service under this tariff to participating customers who become delinquent in any amount owed to the Company with a 30 day notice of termination.

SPECIAL TERMS AND CONDITIONS

This tariff is subject to the Company's Terms and Conditions of Service and all provisions of the standard rate schedule under which the customer takes service, including all payment provisions.

Service under this tariff provides for the purchase of renewable attributes of renewable energy currently available to the Company. Subscribers have the sole right to make claim to the renewable attributes they purchase under this tariff. The Company will retire all renewable attributes purchased under this tariff on behalf of Subscribers.

Effective with commercial operation of the Wind Catcher Energy Connection Project ("Project") customers in Service Levels 1 through 3 may elect to receive RECs generated specifically from the Project, up to the Project prorated allocation for these service levels, at a rate equivalent to the most recent 12-month weighted average, REC transactional market price. Upon request, the Company will provide an attestation setting forth that the RECs provided under this special term are not double-counted and are retired internally by the Company.

ATTACHMENT 7

Rider WCECA

PURPOSE

The Wind Catcher Energy Connection Asset (WCECA) Rider is designed to recover return on and of the wind asset facility and operation and maintenance expenditures after the facility commences commercial operation as approved in Cause No. PUD 201700XXX.

This schedule is applicable to and becomes part of each PSO jurisdictional rate schedule. This schedule is applicable to energy consumption of retail customers and to facilities, premises and loads of such retail customers.

The WCECA Factors will include the Oklahoma jurisdictional portion of the project once it is placed in commercial operation and will be determined using the most recently approved production allocation factors for PSO. The WCECA Factors will be calculated in accordance with the following methodology and will be applied to each kWh sold.

ANNUAL DETERMINATION

The initial period for the WCECA Factors shall be the forecasted initial 12 months of operation after the commercial operation date of the wind project.

A True-up Adjustment shall be calculated and reflected in the following year's WCECA Factor calculation. The True-up Adjustment shall be defined as the difference between the actual WCECA costs for the prior year and the revenue received from the WCECA Factors.

WCECA Factors shall be submitted to the Director of the PUD and shall be accompanied by a set of workpapers sufficient to fully document the calculations of the WCECA Factors including any potential True-up Adjustment.

Amounts collected through the Rider WCECA are subject to refund based upon the Commission's final determination of prudency

The WCECA Factors shall be calculated as shown below:

WCECARR	=	(((WCAP – ADEP)*ROR + DEPX + O&M) * RBAF) – (PTC *RBAF) + TU/Forecasted Base Revenues or kWh Sales by Major Rate Class, as appropriate.
WCAP	=	Average project plant in service balance for the forecasted calendar year
ADEP	=	Average accumulated depreciation balance for the forecasted calendar year based on the depreciation rates in effect for PSO
DEPX	=	Depreciation expense for the forecast period based on the depreciation rates PURPOSE

O&M	=	Operations and Maintenance expense for the forecasted period
ROR	=	Return on plant in service which includes interest on debt, shareholder return and related income taxes based on a pre-tax rate of return specific to the WCECA Rider of X.XX%, with the weighted equity component rate grossed-up by the gross conversion factor specific to income taxes currently in effect
RBAF	=	Production Demand Allocation Factor for each major rate class from the Company's cost allocation study provided in the most recent rate case. The allocators are as follows:

Major Rate Class	Production Allocators
Residential - Secondary	XX.XX%
Commercial -Secondary *	XX.XX%
SL 3 - Primary	XX.XX%
SL 2 – Primary Sub	X.XX%
SL 1 - Transmission	X.XX%

*Includes Lighting

PTC	=	Federal Production Tax Credits
TU	=	The true-up amount to correct for any variance between the actual WCECA costs for the prior year and the revenue received from the WCECA Factors. The calculation will be done on an annual basis, and will determine the true-up for the following year.

ANNUAL REVIEW

The Company will submit to the Director of the PUD the requested WCECA Annual Factors approximately 90 days preceding the requested effective date. The requested WCECA Factors will become effective, upon PUD approval, with the first billing cycle of the requested billing month.

TERM

The WCECA Factors will be determined on an annual basis until the generating facility is included in retail base rates of the Company.in effect PSO.

The Empire District Electric Company
Response to Office of Public Counsel's Data Requests 2026-2032
Case No. EO-2018-0092

Response provided by: Christopher D. Krygier

Title: Director, Rates and Regulatory Affairs

Company Response Number: 2031

Date of Response: May 1, 2018

Question:
Will Empire continue its "voluntary filing of revised tariffs" in ER-2018-0228 if the Commission rejects its application in Case No. EO-2018-0092? If not, please explain in detail why it will not?

Response:
The commitment to the filing of tariffs reflected in the Non-Unanimous Stipulation and Agreement is linked to the package of items reflected therein (see paragraph 2 of the Non-Unanimous Stipulation and Agreement). If Empire's application in EO-2018-0092 is rejected, Empire will need to examine the circumstances existing at that point in time before it will be in a position to decide what actions it will take in Case No. ER-2018-0228.

Responsible person(s): Christopher D. Krygier

The Empire District Electric Company
Response to Office of Public Counsel's Data Requests 2026-2032
Case No. EO-2018-0092

Response provided by: Timothy N. Wilson

Title: Central Region Director of Electric Operations – Services

Company Response Number: 2028

Date of Response: May 1, 2018

Question:

Regarding OPC DR-2027, please provide a narrative explanation as to what the Company intends to do to remediate any concerns raised by either the Missouri Department of Conservation and/or the U.S. Fish and Wildlife regarding specific site locations for the Company's proposed wind farm(s) in Missouri.

Response:

Attached as "Attachment OPC 2028 - MO OPC Recommendations.xlsx" is a table indicating recommendations from the Missouri OPC, and Empire's Project Guidelines that indicate our intentions to follow the USFWS Land-based Wind Energy Guidelines. These guidelines are not final as we will also continue working with the individual counties as we progress forward in developing our sites. We are following the Bird & Bat Work Plan developed with USF&W and MDC agreement. Any items of concern will be addressed in the final design of the wind farm, using determinations from the ongoing studies.

Post Construction Mortality Monitoring will be approached using Eagle Conservation Plan/Habitat Conservation Plans or Bird Bat Conservation Strategies.

Responsible person(s): Timothy N. Wilson

	Missouri OPC Recommendation	Empire Project Guidelines
Pre-Site Selection		
	1,000 Ft. buffer, between the wind farm and any woodland or forest	Empire is following the USFWS Land-based Wind Energy Guidelines (2012). Final Design is required to ensure infrastructure is outside 1000 ft buffer. This is a recommended Best Management Practice (BMP) or may be an Incidental Take Permit condition based on agency consultation for bats if issued by USFWS. This is dependent on our presence surveys.
	Confirmation from USF&W that wind farm has appropriate buffer between the wind facility and known eagle nests.	Empire is following the USFWS Eagle Conservation Plan Guidance (2013). Final Design is required. This is a recommended Best Management Practice (BMP) or requirement if a Take Permit for eagles is issued by USFWS. Preliminary survey results indicate possible risk for eagles and consideration for a permit is recommended.
	Pre-construction survey and monitoring analysis to assess risk of wind facility/project to wildlife (following USF&W Eagle Conservation Plan Guidance V2)	Empire is following the USF&W Voluntary Wind Energy Siting Guidelines. The project is also following the Bird and Bat Work Plan developed with USF&W and MDC agreement, which refers to the Eagle Conservation Plan. We are using Eagle Conservation Plan Guidance to conduct eagle-use and aerial nest surveys (currently ongoing).
	Pre-construction survey and monitoring analysis to assess risk of wind facility/project to wildlife (following most recent Range-Wide Indiana Bat Summer Survey Guidance).	Empire is following the USF&W Voluntary Wind Energy Siting Guidelines. The Bird and Bat Work Plan developed with USF&W and MDC agreement, includes bat response subject to ongoing bat studies. We are also following the USF&W 2017 Rangewide Summer Survey Guidance to conduct current and upcoming acoustic/mist-net surveys.
	All documents (monitoring plan, site selection, pre and post construction monitoring) shall be developed with USF&W protocols.	All documents are being developed according to USF&W protocols. Specific documents include: Eagle Conservation Plan as part of potential Eagle Take Permits; Habitat Conservation Plan as part of Incidental Take Permit; if no Take Permits are required then this would be part of a (voluntary) Bird and Bat Conservation Strategy. Per recommendations in the Land-based Wind Energy Guidelines 2012
Post Construction Mortality Monitoring		
	Follow post-construction mortality monitoring of birds and bats following "Evidence of Absence" approach (Evidence of absence V2 software user guide: USGS Data Series 1055)	Habitat Conservation Plans or Bird Bat Conservation Strategy would be used to detail monitoring plans (which would encompass "Evidence of Absence"). Service may recommend a third-party entity that conducts post-construction monitoring.
	Provide annual mortality data to MDC, USF&W, MPSC, MOPC	Habitat Conservation Plans or Bird Bat Conservation Strategy would be used to detail monitoring plans. Service may recommend a third-party entity that conducts post-construction monitoring.
	In order to handle specimens, obtain Missouri Wildlife Collector's permit.	Habitat Conservation Plans or Bird Bat Conservation Strategy would be used to detail monitoring plans. Service may recommend a third-party entity that conducts post-construction monitoring, which would be responsible for holding permit.
	Report carcass of a Species of Conservation Concern within 48 hrs. to MDC.	Habitat Conservation Plans or Bird Bat Conservation Strategy would be used to detail monitoring plans. Details would include a biologist confirm identifications of species.
	Report carcass of Federally Threatened or Endangered Species within 24 hrs. to USF&W	Habitat Conservation Plans or Bird Bat Conservation Strategy would be used to detail monitoring plans. Details would include a biologist confirm identifications of species.
	Report bald or golden eagle carcass to USF&W within 6 hrs.	Eagle Conservation Plan/Habitat Conservation Plan or Bird Bat Conservation Strategy would be used to detail monitoring plans. Details would include a biologist confirm identifications of species.
	All roadkill or livestock carcasses within project area will be removed to avoid attracting eagles or other birds of prey to the wind facility at least every 3 days.	Eagle Conservation Plan/Habitat Conservation Plan or Bird Bat Conservation Strategy would be used to detail monitoring plans.

The Empire District Electric Company
Response to Office of Public Counsel's Data Request 8046-8054
Case No. EO-2018-0092

Response provided by:	Christopher D. Krygier
Title:	Director, Rates and Regulatory Affairs
Company Response Number:	8048
Date of Response:	May 1, 2018

Question:

Reference Krygier affidavit para. 13 – If this agreement is not approved by the Commission, when does Empire estimate that it would seek a change in rates, what would be the driver of this change in rates, and what is the estimated impact on rates that Empire would seek? Would the need for this change in rates be removed if this agreement is approved by the Commission?

Response:

Empire continues to make investments in its system that will drive a rate case at some point. However, the Company is still determining the timing of its next general rate case and the potential impact on rates.

Regardless of whether or not the Stipulation is approved, Empire is required by statute to file a general rate case by October 2019 (approximately) for rates effective September 2020. Additionally, Empire will have semi-annual changes in its Fuel Adjustment Clause.

Approval of the Stipulation is not anticipated to remove any need for a rate increase. The Company has instead agreed to delay any such rate case in accordance with the terms of the Stipulation.

Responsible person(s): Christopher D. Krygier

FILED
APR 02 2018
COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF THE APPLICATION)
OF THE EMPIRE DISTRICT ELECTRIC)
COMPANY FOR APPROVAL OF ITS) CAUSE NO. PUD 201700471
CUSTOMER SAVINGS PLAN)

JOINT STIPULATION AND SETTLEMENT AGREEMENT

I. Introduction

The undersigned parties believe it is in the public interest to effectuate a settlement of the issues in Cause No. PUD 201700471.

Therefore, now the undersigned parties to the above entitled Cause present the following Joint Stipulation and Settlement Agreement ("Joint Stipulation") for the Oklahoma Corporation Commission's ("Commission") review and approval as a compromise and settlement of all issues in the proceeding between the parties to this Joint Stipulation ("Stipulating Parties"). The Stipulating Parties represent to the Commission that the Joint Stipulation represents a fair, just, and reasonable settlement of these issues, that the terms and conditions of the joint Stipulation are in the public interest, and the Stipulating parties urge the Commission to issue an Order in this Cause adopting the Joint Stipulation no later than May 31, 2018.

The Stipulating Parties agree that the Commission has jurisdiction with respect to the issues presented in this proceeding by virtue of Article IX, §18 *et seq.* of the Oklahoma Constitution and 17 O.S. §151 *et seq.*

It is hereby stipulated and agreed by and between the Stipulating Parties as follows:

II. Stipulated Facts

A. On October 31, 2017, The Empire District Electric Company ("Empire" or "Company") filed an application requesting approval from the Commission of its proposed plan to achieve up to $325 million in savings for customers over the next twenty years ("Customer Savings Plan"). Under the Customer Savings Plan, Empire proposes (i) through Wind Holdco(s) to acquire up to 800 MW of strategically located wind generation (the "Wind Projects") using federal tax incentives in conjunction with tax equity partners and (ii) retire a coal-fired unit that will require significant capital investment by April 2019 in order to remain in compliance with environmental regulations and that incurs on-going operations and maintenance ("O&M"). In the current proceeding, Empire seeks regulatory validation of the Customer Savings Plan.

B. Empire is not seeking the recovery of any costs in this proceeding and is in the process of conducting a competitive solicitation for the Wind Projects.

C. Empire sought the following specific approvals in order to implement the Customer Savings Plan: (i) authorization to record its investment in and the costs to operate the Wind Projects; (ii) authorization to create a regulatory asset for the undepreciated balance of the Asbury facility; (iii) approval of the arrangements between Empire and affiliates necessary to implement the Customer Savings Plan, to the extent necessary; (iv) approval of depreciation rates for the Wind Projects, so that depreciation can begin as soon as the assets are placed in service; and (v) issuance of an order by May 31, 2018 so that Empire can take advantage of a limited window of opportunity to bring these savings to customers.

III. Settlement Agreement

A. Wind Projects Solicitation. The Stipulating Parties agree that the Commission, based on the testimony and analysis presented in this proceeding, should issue an order authorizing the Company's request for proposal (RFP) for the acquisition of up to 800 MW of strategically located wind generation (the "Wind Projects") using federal tax incentives in conjunction with tax equity partners, and authorizing the Company's retirement of the Asbury coal plant as detailed below. The Stipulating Parties further agree that, the following are conditions for any future Commission approval of the Wind Projects:

a. the Wind Projects are to be located within the Southwest Power Pool ("SPP") footprint with energy and capacity deliverable to the Empire service territory;
b. the Wind Projects shall be the lowest, reasonable levelized cost of electricity ("LCOE") at time of contract execution, but in no event greater than $30/MWh, after consideration of all factors, such as capital cost per/kw, transmission interconnection, developer experience and safety record, completion schedule, permitting status, capacity factor, tax equity financing, and annual fixed O&M per/kw; and
c. Empire shall guarantee for customers the capacity factor(s) to the extent provided by developers in definitive Wind Project purchase agreements.

The Stipulating Parties agree that, the above conditions are reasonable and in the public interest. Notwithstanding the above authorizations, the Stipulating Parties agree that the Company's next general rate proceeding shall serve as the regulatory docket to review (i) whether the Wind Projects selected in the competitive bidding process are consistent with the Generation Fleet Savings Analysis ("GFSA") and the conditions contained in this Paragraph A above; and (ii) the prudency of the acquisition of the Wind Project(s), including the prudency of (i) contracts with the wind developers, (ii) the financing costs, and (iii) the capital and operating costs.

B. Initial Depreciation Rates. The Stipulating Parties agree that the Commission should allow Empire to utilize a composite 3.33% depreciation rate for the Wind Project FERC accounts beginning with such time as the assets are placed in-service subject to future review and approval by the Commission of the Wind Projects. Any other assets that do not qualify for the wind FERC accounts, shall utilize the depreciation rate currently authorized. If assets are constructed in which no depreciation rate exists, the Company is authorized to utilize a rate based on information available.

C. Future Depreciation Rates. The Stipulating Parties further agree that Empire shall perform a depreciation study of the Wind Projects and submit it as part of its first base rate case filing after the Wind Projects are placed in-service.

D. Renewable Energy Credits. The Stipulating Parties further agree that in its first base rate case after the Wind Projects are placed in-service, Empire shall propose a tariff for the assignment of a portion of Renewable Energy Credits ("RECs") received from the Wind Projects to Oklahoma commercial and industrial customers, the assignment of which shall be priced at market value.

E. Tax Cuts and Jobs Act Credit Rider. The Stipulating Parties agree that the Commission should approve the Tax Cuts and Jobs Act Credit Rider ("TCJACR"), attached hereto as Attachment A. The TCJACR will represent the balance between the Oklahoma revenue requirement utilized in current base rates and a recalculated Oklahoma revenue requirement using the reduced corporate income tax rate of 21%. The TCJACR will be implemented the first month after the approval of this agreement but is effective for all purposes as of January 1, 2018 and will be trued-up in Empire's next Oklahoma general rate case proceeding. Empire also agrees to include a line item on its customer bills related to the impact of the TCJACR.

F. Tax Cuts and Jobs Act Regulatory Liability. The Stipulating Parties agree that Empire will establish a regulatory liability to account for the tax savings associated with Oklahoma jurisdictional excess Accumulated Deferred Income Taxes ("ADIT"). Empire will record a regulatory liability for the difference between the ADIT balance included in current Oklahoma rates, which was calculated using the 35% federal corporate income taxes, versus the now lower federal corporate income tax rate of 21%. The amortization of this regulatory liability will be done over the appropriate time period consistent with the tax normalization rules and as represented to the Internal Revenue Service (IRS). Empire is in the early stages of evaluating the cost and ability to use the Average Rate Assumption Method ("ARAM") as a method for computing and normalizing excess ADIT. Empire agrees to file a report with the Commission regarding Empire's ability to comply with ARAM accounting by no later than March 31, 2019. To the extent it does not create a normalization violation, until the normalization begins to be provided to customers, a tracker will capture the amortization that would have occurred in prior periods and will be held until the next Oklahoma general rate case. At the time of the next Oklahoma rate case, the tracker balance will be amortized over five years. Tracking of excess ADIT will begin as of January 1, 2018. These calculations shall specifically exclude the assets and investments related to the Asbury coal plant as those investments are addressed below.

G. Most Favored Nations Clause. Within ninety (90) days after Empire receives final, non-appealable orders from the public utility commissions in Arkansas, Kansas, and Missouri granting approval for the Customer Savings Plan, the Company shall submit copies of the Orders to the Stipulating Parties in Cause No. PUD 201700471 detailing (i) any concessions granted to Empire's Arkansas, Kansas, and/or Missouri customers; (ii) any conditions for approval imposed by any state public utility commission; (iii) Empire's position on whether any such conditions or concessions create additional material value for customers than was included in conditions or concessions in a final order in Oklahoma in this cause; and (iv) Empire's proposal as to the actions necessary to pass along comparable value to its Oklahoma customers. Upon agreement of the Stipulating Parties, any such concessions or conditions favorable to customers shall be appended

to this Settlement Agreement and inure to the benefit of Empire's Oklahoma customers. If unanimous consent is not obtained from all Stipulating Parties to such concessions or conditions, any party to the proceeding in Cause No. PUD 201700471 may initiate a cause seeking the extension of any concessions and/or conditions on approval from other jurisdictions, or comparable value to such concessions and/or conditions, to Oklahoma customers. Given Paragraph H below, this section shall not apply to any benefits resulting from potential savings, regulatory treatments associated with the capital investment and operations and maintenance expense, or other issues associated with the Asbury coal plant between the retirement date of the Asbury facility and the implementation of new rates after the next general rate proceeding. This section also shall not apply to any conditions surrounding location preferences of any of the proposed wind farms.

H. Rate Case Moratorium, Future Regulatory Reviews and Asbury Recovery. Empire agrees that it shall not file a general rate proceeding or any other proceeding in Oklahoma (except a proceeding related to storm cost recovery or any emergency cost recovery needed by the Company) that requests or would result in an increase in rates, or seeks approval of a formula or performance-based rate plan, prior to the later of: (i) a test-year or pro forma six month test-year period that includes the constructed and in-service Wind Projects, or (ii) June 30, 2020. Also, in Empire's next Oklahoma general rate proceeding, the Stipulating Parties agree to consider in good faith a Empire proposal for alternative ratemaking structure or mechanisms due to the size of Empire's service territory in Oklahoma.

The Stipulating Parties agree that the Commission should take no action in this proceeding regarding the prudence, cost recovery, rate design, or cost allocation of the Wind Projects. However, the Stipulating Parties agree that Empire shall prepare and recommend a rate design proposal, in Empire's next general rate case proceeding, to allocate the costs of Empire's production plant and the Wind Projects using a 4CP Average and Excess allocation methodology.

The Stipulating Parties agree that the retirement of Asbury is reasonable, given the GFSA conducted by the Company. The Stipulating Parties agree that the Commission should issue an order authorizing the Company to record on its books a regulatory asset for the undepreciated balance of the Asbury facility at the time the Asbury facility is retired. The Stipulating Parties further agree that the return on that regulatory asset shall be the Company's weighted average cost of capital and such return on that regulatory asset shall take effect beginning in the next general rate proceeding. The Stipulating Parties further agree that Empire shall commence amortization of the deferred amounts associated with the Asbury retirement at the time of regulatory asset creation, with the amortization to be completed over a thirty (30) year period. The Stipulating Parties agree that the Company shall continue its recovery of Asbury through base rates and the Environmental Compliance Rider ("ECR") approved in Cause No. PUD 201600468 and continue recovering the investment to offset any regulatory lag associated with the rate case moratorium described above.

I. The Stipulating Parties agree that, if Empire does not obtain approval of the Customer Savings Plan in Missouri that is acceptable to the Company, the Stipulating Parties shall not be bound by the terms of this Agreement. This paragraph shall not apply to the TCJACR if such rider is made effective by Commission order approving this Agreement before June 30, 2018.

IV. General Reservations

The Stipulating Parties represent and agree that, except as specifically provided:

A. Negotiated Settlement. This Joint Stipulation represents a negotiated settlement for the purpose of compromising and resolving the issues presented in this Cause.

B. Authority to Execute. Each of the undersigned counsel of record affirmatively represents to the Commission that he or she has fully advised his or her respective client(s) that the execution of this Joint Stipulation constitutes a resolution of issues which were raised in this proceeding; that no promise, inducement or agreement not herein expressed has been made to any Stipulating Party; that this Joint Stipulation constitutes the entire agreement between and among the Stipulating Parties; and each of the undersigned counsel of record affirmatively represents that he or she has full authority to execute this Joint Stipulation on behalf of his or her client(s).

C. Balance/Compromise of Positions. The Stipulating Parties stipulate and agree that the agreements contained in this Joint Stipulation have resulted from negotiations among the Stipulating Parties. The Stipulating Parties hereto specifically state and recognize that this Joint Stipulation represents a balancing of positions of each of the Stipulating Parties in consideration for the agreements and commitments made by the other Stipulating Parties in connection therewith. Therefore, in the event that the Commission does not approve and adopt all of the terms of this Joint Stipulation, this Joint Stipulation shall be void and of no force and effect, and no Stipulating Party shall be bound by the agreements or provisions contained herein. The Stipulating Parties agree that neither this Joint Stipulation nor any of the provisions hereof shall become effective unless and until the Commission shall have entered an Order approving all of the terms and provisions as agreed to by the parties to this Joint Stipulation.

D. Admissions and Waivers. The Stipulating Parties agree and represent that the provisions of this Joint Stipulation are intended to relate only to the specific matters referred to herein, and by agreeing to this settlement, no Stipulating Party waives any claim or right which it may otherwise have with respect to any matters not expressly provided for herein. In addition, none of the signatories hereto shall be deemed to have approved or acquiesced in any ratemaking principle, valuation method, cost of service determination, depreciation principle or cost allocation method underlying or allegedly underlying any of the information submitted by the parties to this Cause and except as specifically provided in this Joint Stipulation, nothing contained herein shall constitute an admission by any Stipulating Party that any allegation or contention in this proceeding is true or valid or shall constitute a determination by the Commission as to the merits of any allegations or contentions made in this proceeding.

E. No Precedential Value. The Stipulating Parties agree that the provisions of this Joint Stipulation are the result of negotiations based upon the unique circumstances currently represented by the Applicant and that the processing of this Cause sets no precedent for any future causes that the Applicant or others may file with this Commission. The Stipulating Parties further agree and represent that neither this Joint Stipulation nor any Commission order approving the same shall constitute or be cited as precedent or deemed an admission by any Stipulating Party in

any other proceeding except as necessary to enforce its terms before the Commission or any court of competent jurisdiction. The Commission's decision, if it enters an order approving this Joint Stipulation, will be binding as to the matters decided regarding the issues described in this Joint Stipulation, but the decision will not be binding with respect to similar issues that might arise in other proceedings. A Stipulating Party's support of this Joint Stipulation may differ from its position or testimony in other causes. To the extent there is a difference, the Stipulating Parties are not waiving their positions in other causes. Because this is a stipulated agreement, the Stipulating Parties are under no obligation to take the same position as set out in this Joint Stipulation in other dockets.

F. Discovery. As between and among the Stipulating Parties, any pending requests for information or discovery and any motions that may be pending before the Commission are hereby withdrawn.

WHEREFORE, the Stipulating Parties hereby submit this Joint Stipulation and Settlement Agreement to the Commission as their negotiated settlement of this proceeding with respect to all issues raised within the Application filed herein by The Empire District Electric Company or by Stipulating Parties to this Cause, and respectfully request the Commission to issue an Order approving the recommendations of this Joint Stipulation and Settlement Agreement.

THE EMPIRE DISTRICT ELECTRIC COMPANY

Dated: 4/2/18

By: ______

Kimber L. Shoop

THE PUBLIC UTILITY DIVISION

Dated: 4/2/18

By: ______

Natasha Scott

The Public Utility Division stipulates with the exception of return on the Asbury facility as stated in the third sentence of the third paragraph of paragraph H.

THE ATTORNEY GENERAL

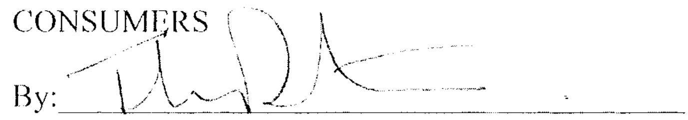
Dated: 4/2/18

By: ______

Jared Haines

THE OKLAHOMA INDUSTRIAL ENERGY CONSUMERS

Dated: 4/2/18

By: 

Thomas P. Schroedter

ATTACHMENT A

THE EMPIRE DISTRICT ELECTRIC COMPANY
602 Joplin Street
Joplin, Missouri 64801

Original Sheet No. xx
Replacing Sheet No.
Date Issued: xx-xx-2018

STANDARD PRICING SCHEDULE: STATE OF OKLAHOMA

TAX CUTS AND JOBS ACT CREDIT RIDER
SCHEDULE – TCJACR

AVAILABILITY:

This TCJACR rider applies to all retail customer billings rendered by The Empire District Electric Company ("Company").

PURPOSE:

The Company shall provide to customers as an adjustment to the aforementioned bills, a tax credit equal to the difference between the revenue requirement utilized in current base rates and as recalculated using the reduced corporate federal income tax rate of 21%, as a result of the Tax Cuts and Jobs Act of 2017.

TERM:

This rider will have a term beginning with the first month following the effective date of a Commission Final Order approving this rider in Cause No. PUD 201700471 and ending with the rate effective date of the Company's next general rate case, unless otherwise ordered by the Commission.

CALCULATION:

The components of the TCJACR calculation shall be as follows:

Annual Revenue Requirement - Revised

-(Less)
Annual Revenue Requirement – as authorized

____

= (Annual TCJACR Credit)

Annual Revenue Requirement – Revised = all components of the revenue requirement per the rate design for Cause No. PUD 201100082, updated only for the impact of the corporate federal income tax being lowered to 21%.

Annual Revenue Requirement – As Authorized = all components of the revenue requirement per the rate design for Cause No. PUD 201100082.

Rates Authorized by the Oklahoma Corporation Commission:
(Effective) (Order No.)
xxx xx, 2018 xxxxxx

Public Utility Division Stamp:
(Cause No.)
PUD-201700471

THE EMPIRE DISTRICT ELECTRIC COMPANY
602 Joplin Street
Joplin, Missouri 64801

Original Sheet No. xx
Replacing Sheet No.
Date Issued: xx-xx-2018

STANDARD PRICING SCHEDULE:

STATE OF OKLAHOMA

TAX CUTS AND JOBS ACT CREDIT RIDER
SCHEDULE – TCJACR

TCJACR FACTORS

Class	TCJACR Factor per kWh
Residential	-0.00402711
Residential Total Electric	-0.00343981
Commercial	-0.00486516
Total Electric Building	-0.00367109
General Power	-0.00349431
Power Transmission	-0.00280784
Special Lights	-0.00593657
Class	**Monthly TCJACR Factor per light**
Street Lights	-0.31581767
Private Lights	-0.04846102

SUBJECT TO TRUE-UP:

The credit provided pursuant to this rider, as approved by the Commission in Cause No. PUD 201700471, shall be compared to the estimated revenue requirement calculated using the lower federal corporate income tax on an annualized basis. The amount of any over/(under) credit shall take place during the Company's next general rate case or as otherwise ordered by the Commission.

Rates Authorized by the Oklahoma Corporation Commission:
(Effective) (Order No.)
xxx xx, 2018 xxxxxx

Public Utility Division Stamp:
(Cause No.)
PUD-201700471