

BEFORE THE CORPORATION COMMISSION OF THE STATE 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 DEEMDS PSO IS ENTITLED)

CAUSE NO. PUD 201700267

FILED
JUN 20 2018

COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

**ATTORNEY GENERAL’S COMBINED RESPONSE TO THE
MOTIONS TO INTERVENE AND CONTINUE HEARING OF
CITY OF BIXBY AND LANDOWNERS**

Mike Hunter, Attorney General of the State of Oklahoma, hereby submits his combined response to the Motions to Intervene and Motions to Continue Hearing of the City of Bixby and Maurice and Leah Storm, Mark and Becky Fugett, and Mark and Lonni St. John (“Landowners”). The Attorney General supports the relief requested in these motions. Further, in the event the Oklahoma Corporation Commission (“Commission”) grants the motions filed by the City of Bixby and Landowners, the Attorney General would agree to defer any evidentiary hearing on the Joint Statement Against Preapproval, and Joint Stipulation and Settlement Agreement in the Event of Preapproval (“Consumer Protection Settlement Agreement”) previously filed on May 14, 2018. In support of this position, the Attorney General states the following:

1. Public Service Company of Oklahoma (“PSO”) filed the instant proceeding on July 31, 2017, seeking preapproval of its plan to purchase wind turbines with a nameplate capacity of

2000 MW and to construct a 350- to 380-mile power line from the Oklahoma Panhandle to Tulsa, Oklahoma (collectively “Wind Catcher”).

2. At the time it filed its application, PSO stated that its 350- to 380-mile power line would terminate at the Tulsa North substation after running through northern and central Oklahoma.

3. In the course of evaluating PSO’s application on behalf of the utility customers of Oklahoma, the Attorney General’s expert witnesses testified that PSO faced a significant risk of cost overruns with the 350- to 380-mile power line included in its request for preapproval.¹

4. During the hearing on the merits, PSO’s witnesses were unaware that the Osage Nation objected strenuously to Wind Catcher and may not cooperate with development of the 350- to 380-mile power line terminating at the Tulsa North substation.²

5. The day after the hearing on the merits ended, PSO issued a press release stating that it would begin studying a southern route for its power line, terminating on the south side of the Tulsa metropolitan area.³ PSO did not provide notice to the parties or take steps to update the record in this cause in response to the changed route.

6. On February 12, 2018, the Administrative Law Judge issued a Report and Recommendation, which recommended that Wind Catcher not be approved by the Commission. Of note, the Administrative Law Judge recommended that the 350- to 380-mile power line

¹ Responsive Test. of Daniel V Bauerkemper, P.E., on Behalf of Mike Hunter, Oklahoma Attorney General 8:17–9:6 (Dec. 4, 2017).

² Tr. 1/16/18 A.M. at 105:9–108:12.

³ Public Service Company of Oklahoma Considers Alternatives to Connect Wind Catcher to Grid, Public Service Co. of Oklahoma (Jan. 19, 2018), <https://psoklahoma.com/info/news/viewRelease.aspx?releaseID=2485>.

constituted a transmission line and could not be within the scope of 17 O.S. § 286(C), which applies to preapproval of generation projects.⁴

7. After filing its exceptions to the Administrative Law Judge's report, PSO also filed a Motion to Delay Oral Argument. Among other things, PSO requested that the Commission allow the parties to present evidence on any settlement agreements that could be completed.

8. The Attorney General filed a Response to PSO's Motion to Delay Oral Argument on March 13, 2018. In this filing, the Attorney General requested that if the Commission does allow additional evidence to be presented due to any developments in settlement negotiations, it should also allow additional evidence on material changes affecting Wind Catcher. The Attorney General specifically identified PSO's intentions to study an alternative route that could affect the costs and public interest aspects of Wind Catcher.⁵

9. On April 24, 2018, PSO filed its Joint Stipulation and Settlement Agreement, which it reached with Wal-Mart Stores East, LP and Sam's East, Inc. ("Wal-Mart") and with Oklahoma Industrial Energy Consumers ("OIEC"). It also eventually filed its Amendment to the Joint Stipulation and Settlement Agreement and a separate Joint Stipulation and Settlement Agreement with Oneta Power, LLC (collectively "PSO Settlements"). PSO filed joint motions to have the PSO Settlements heard and considered by the Commission. The notice of hearing for PSO's joint motions included a date of July 2, 2018.

10. The Public Utility Division ("PUD") and Attorney General filed the Consumer Protection Settlement Agreement on May 14, 2018. In that filing, PUD and the Attorney General urged the Commission not to grant preapproval of Wind Catcher. They also presented several

⁴ Report and Recommendation of the Administrative Law Judge 13 (Feb. 12, 2018).

⁵ Attorney General's Resp. Mot. Delay Oral Argument 5 (Mar. 13, 2018).

conditions the Commission could impose to attempt to hold customers harmless if the Commission chose to grant preapproval. PUD and the Attorney General further “urge[d] the Company to enter into a voluntary agreement with landowners to outline a process for siting and dispute resolution” to “ensure affected landowners’ concerns are heard, considered, and addressed.”⁶

11. On June 12, 2018, PUD and the Attorney General filed a joint motion to have the Consumer Protection Settlement Agreement considered and heard by the Commission. In the joint motion and through the Notice of Hearing, PUD and the Attorney General requested that the Commission take evidence and consider the Consumer Protection Settlement Agreement. The notice of hearing contained the same date and time as the notice of hearing for PSO’s motion requesting that the Commission consider the PSO Settlement Agreement.

12. Granting the motions of the City of Bixby and Landowners would materially affect the relief requested in the joint motion of PUD and the Attorney General.

13. Further, the Motions filed by the City of Bixby and Landowners indicate that their concerns have not been heard, considered, and addressed. The City of Bixby and Landowners have also shown that the change in PSO’s route for its power line did not occur until well after the deadline for intervention in this case and even after the conclusion of the hearing on the merits.

14. Without notice or knowledge that their interests could be affected by Wind Catcher, the City of Bixby and Landowners had no basis for intervening or presenting evidence as to their interests before the hearing on the merits.

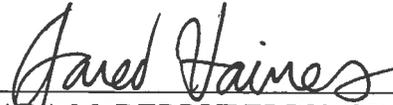
Wherefore, the Attorney General supports the motions of City of Bixby and Landowners. If the Commission grants the motions to intervene and continue the hearing on PSO’s motion, the

⁶ Consumer Protection Settlement Agreement 1–2 (May 14, 2018).

Attorney General agrees to continue any evidentiary hearing on the Consumer Protection Settlement Agreement.

Respectfully submitted,

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CERTIFICATE OF SERVICE

On this 20th day of June, 2018, a true and correct copy of the above and foregoing *Attorney General's Combined Response to Motions to Intervene and Continue Hearing of City of Bixby and Landowners*, was sent via electronic mail to the following interested parties:

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