

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

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APPLICATION OF MIKE HUNTER, THE)
ATTORNEY GENERAL OF OKLAHOMA, TO) CAUSE NO. PUD 201700572
LOWER THE RATES AND CHARGES FOR)
ELECTRIC SERVICE AND PROVIDE FOR)
ANY REFUND DUE TO THE CUSTOMERS)
OF PUBLIC SERVICE COMPANY OF)
OKLAHOMA RESULTING FROM THE TAX)
CUTS AND JOBS ACT OF 2017)

HEARING: May 16-17, 2018, in Courtroom 301B
2101 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105
Before Mary Candler, Administrative Law Judge

APPEARANCES: Dara M. Derryberry, Deputy Attorney General, Katy Evans Boren
and Jared B. Haines, Assistant Attorneys General *representing*
Office of Attorney General, State of Oklahoma
Michael L. Velez, Assistant General Counsel *representing* Public
Utility Division, Oklahoma Corporation Commission
Jack P. Fite and Joann S. Worthington, Attorneys *representing*
Public Service Company of Oklahoma
Thomas P. Schroedter, Attorney *representing* Oklahoma Industrial
Energy Consumers
Deborah R. Thompson, Attorney *representing* AARP

REPORT AND RECOMMENDATIONS OF THE ADMINISTRATIVE LAW JUDGE

The above-referenced Cause comes before the Oklahoma Corporation Commission ("Commission") on the Application of the Attorney General of Oklahoma ("Attorney General" or "AG") seeking to lower the rates and charges for electric service to Public Service Company of Oklahoma's ("PSO") customers resulting from the Tax Cuts and Jobs Act of 2017.

I. RECOMMENDATION

Based upon the evidence and testimony presented in this Cause, the Administrative Law Judge ("ALJ") recommends that PSO be required to implement an Excess Tax Reserve Rider ("Rider") to return identified tax savings to customers due to the Tax Cuts and Jobs Act of 2017 ("TCJA" or "the Act"). The ALJ recommends that this Rider be reviewed annually with a recalculation and true up. This Rider is to include excess income tax collected from customers from January 9, 2018, through February 28, 2018, together with interest at an interest rate equivalent to PSO's cost of capital, as well as excess accumulated deferred income taxes ("ADIT") resulting from the Tax Cuts and Jobs Act of 2017. Protected excess ADIT is to be amortized using the Average Rate Assumption Model ("ARAM"). Unprotected excess ADIT is to be amortized over a ten-year period. Any excess ADIT from July 1, 2017, to December 31, 2017, is to be addressed in PSO's next rate case, if appropriate.

The ALJ recommends the Commission reject PSO's proposal to utilize \$81 million of excess ADIT to offset costs claimed for the Northeastern Unit 4. Northeastern Unit 4 was fully addressed in the 2017 Rate Case Order.

The ALJ recommends a one-time notation to customer bills on the first practically possible billing cycle following a final order in this Cause. This one-time notation will serve to alert customers to initial changes to customer bills due to the TCJA.

The ALJ believes this ALJ report recommends an estimated \$428 million be returned to ratepayers through the Rider. The ALJ recognizes this estimate may not reflect the regulatory practice of "grossing up" for tax purposes. The ALJ directs PSO to provide to all the parties an exhibit that demonstrates an estimated average residential customer impact number based upon recommendations contained in this ALJ report. The ALJ requests that this exhibit be filed in this Cause within five business days of the filing of this report.

II. PROCEDURAL HISTORY

1. The Application and a Notice of Hearing were filed by the Attorney General on December 22, 2017.

2. Also on December 22, 2017, the Attorney General filed its Motion for Immediate Reduction in Rates and Protection of Customer Interests ("Motion").

3. On December 27, 2017, a corrected Notice of Hearing was filed by the Attorney General, setting the Motion for Immediate Reduction in Rates and Protection of Customer Interests for hearing on January 4, 2018.

4. On December 28, 2017, Corporation Commissioner Bob Anthony filed document(s) entitled "Previous Commission and Attorney General Approaches to Tax Reductions".

5. On December 29, 2017, Corporation Commissioner Bob Anthony filed document(s) entitled "Asst. AG Butkin and AG Henry Told HOW to Protect Ratepayers in 1991".

6. On January 3, 2018, PSO filed its Response of Public Service Company of Oklahoma to the Attorney General's Motion for Immediate Reduction in Rates.

7. On January 4, 2018, the ALJ recommended an Interim Order on the Motion for Immediate Reduction in Rates and Protection of Customer Interests.

8. On January 5, 2018, at the request of Corporation Commissioner Bob Anthony, the AG filed the Attorney General's Proposed Interim Order Granting the Attorney General's Motion for Immediate Reduction in Rates and Protection of Customer Interests.

9. On January 8, 2018, the AG filed the Attorney General's Revised Proposed Interim Order Granting the Attorney General's Motion for Immediate Reduction in Rates and Protection of Customer Interests.

10. Also on January 8, 2018, Corporation Commissioner Bob Anthony filed a Deliberations Statement.

11. On January 9, 2018, the Commission issued Order No. 671981, Order on The Attorney General's Motion for Immediate Reduction in Rates and Protection of Customer Interests.

12. On February 9, 2018, the Attorney General filed a Motion to Establish Procedural Schedule along with a Notice of Hearing setting the Motion to Establish Procedural Schedule for hearing on February 22, 2018.

13. On February 15, 2018, Deborah R. Thompson filed an Entry of Appearance on behalf of AARP.

14. Also on February 15, 2018, Thomas P. Schroedter filed an Entry of Appearance on behalf of Oklahoma Industrial Energy Consumers ("OIEC").

15. On February 22, 2018, the Motion to Establish Procedural Schedule was continued by agreement of the parties to March 1, 2018.

16. On March 1, 2018, the Motion to Establish Procedural Schedule was continued by agreement of the parties to March 8, 2018.

17. On March 8, 2018, the Motion to Establish Procedural Schedule was heard and recommended.

18. On March 15, 2018, the Attorney General filed its Motion for Order Prescribing Notice along with a Notice of Hearing setting the Motion for Order Prescribing Notice for hearing on March 29, 2018.

19. On March 29, 2018, the Direct Testimony of Edwin C. Farrar on behalf of the Attorney General was filed.

20. Also on March 29, 2018, the Motion for Order Prescribing Notice was heard and recommended.

21. On April 10, 2018, the U.S. Department of Defense and other Federal Executive Agencies filed a Letter.

22. On April 12, 2018, the Summary of the Direct Testimony of Edwin C. Farrar was filed by the Attorney General.

23. On April 17, 2018, The Commission issued Order No. 676408, Granting Motion to Establish Procedural Schedule and Order No. 676409, Granting Motion for Prescribing Notice.

24. On April 18, 2018, Responsive Testimony of Zachary Quintero on behalf of the Public Utility Division ("PUD"), Randall W. Hamlett, James I. Warren, John O. Aaron, and Steven L. Fate on behalf of PSO and Mark E. Garrett on behalf of OIEC were filed.

25. On April 24, 2018, AARP filed its Statement of Position.

26. On May 4, 2018, the Attorney General filed Proof(s) of Publication.

27. On May 7, 2018, the Rebuttal Testimony of Steven L. Fate on behalf of PSO, Edwin C. Farrar on behalf of the Attorney General; and Mark E. Garrett on behalf of OIEC were filed.

28. On May 8, 2018, the Summary of Responsive Testimony of Steven L. Fate, John O. Aaron, Randall W. Hamlett and James I. Warren on behalf of PSO were filed.

29. On May 9, 2018, the Summary of the Rebuttal Testimony of Edwin C. Farrar on behalf of the Attorney General was filed.

30. On May 10, 2018, the Summary Testimony of Zachary Quintero was filed on behalf of PUD.

31. On May 11, 2018, the Summary of Rebuttal Testimony of Mark E. Garrett on behalf of OIEC was filed.

32. Also on May 11, 2018, OIEC filed its Exhibit and Witness List.

33. On May 14, 2018, the following documents were filed with the Court Clerk's office:

- a. PUD filed an Exhibit List.
- b. PSO filed a Sur-Rebuttal Issues List as well as an Exhibit and Witness List.
- c. AARP filed an Exhibit List.
- d. Attorney General filed an Exhibit List.

34. On May 16, 2018, the Responsive Testimony Summary of Mark E. Garrett on behalf of OIEC was filed.

35. On May 16, 2018, the Hearing on the Merits commenced, oral testimony was offered and the hearing was continued to May 17, 2018.

36. On May 17, 2018, the Hearing on the Merits concluded and the ALJ took the Cause under advisement.

37. On May 24, 2018, PUD filed its Proposed Findings of Fact and Conclusions of Law.

38. On May 25, 2018, OIEC, the Attorney General and PSO filed respective Proposed Findings of Fact and Conclusions of Law.

III. SUMMARY OF EVIDENCE

A. Documents filed in this Cause are contained in records kept by the Court Clerk of the Commission. Testimony was offered via prefiled testimony. The filed testimony summaries are included as Exhibit "A" attached hereto and incorporated herein.

B. The following numbered exhibit was admitted into evidence:

- i. Public Service Company of Oklahoma's Response to Oklahoma Attorney General's Second Data Requests (Response and Attachment 1).

IV. RECOMMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record, including the testimony and exhibits filed in this Cause and the sworn testimony provided by witnesses at the Hearing on the Merits, the ALJ recommends the Commission find as follows:

Jurisdiction and Notice

1. The Commission has jurisdiction over this Cause by virtue of the provisions of Art. IX, § 18 of the Constitution of the State of Oklahoma, 17 O.S. §§ 151 *et seq.*, and the Rules and Regulations of this Commission. PSO is an Oklahoma corporation authorized to do business in the State of Oklahoma. PSO is a public utility with plant, property, and other assets dedicated to the generation, production, transmission, distribution, and sale of electricity at wholesale and retail levels within the State of Oklahoma.

2. Notice was published in compliance with the form of notice required by Commission Order No. 676409. Proof of publication was filed of record in this Cause by the AG on May 4, 2018.

The Tax Cuts and Jobs Act of 2017

3. On December 20, 2017, the United States Congress voted to adopt the Tax Cuts and Jobs Act of 2017, Pub. L. 115-97 ("TCJA" or "Act"), which included a reduction in the highest corporate income tax rate from 35% to 21%. This tax cut has an implication for PSO's customers because utility rates are set based on the cost of service, *Turpen v. Oklahoma Corporation Commission*, 1988 OK 126, ¶ 10 n. 7, 769 P.2d 1309, 1315-16 n. 7, which includes a provision for federal income tax rates.

4. PUD offered testimony that this Act has two major impacts on PSO's cost of service. First, the Company's taxable book income will be assessed at a lower rate, reducing the amount of annual tax payable to the federal government. Second, PSO's current ADIT balance was determined using the previous 35% rate and no longer reflects the amount necessary to pay

the future tax expense on its assets because it will be assessed at the new 21% rate. Both of these impacts result in a significant expense reduction for PSO. (Quintero Resp. 6: 12-19.)

The Attorney General's Application, Motion for Interim Relief and Interim Order

5. The Attorney General filed an Application in this Cause on December 22, 2017, asking that the Commission reduce rates and charges for electric service and provide for any refund due to customers of PSO resulting from the TCJA. The AG also filed a motion seeking interim relief, asking that the lower tax rate applicable to return on rate base be immediately passed through to PSO's customers, and that PSO be required to record excess ADIT as a regulatory liability during the pendency of this Cause, which would be available for refund to ratepayers.

6. On January 9, 2018, the Commission entered its Order on the Attorney General's Motion for Immediate Reduction in Rates and Protection of Customer Interests, Order No. 671981 ("Interim Order"). The Commission ordered that PSO record a deferred liability to reflect the reduced federal corporate tax rate and the associated savings in excess ADIT, subject to refund, beginning with the January 9, 2018, effective date of the Order, as follows:

THE COMMISSION FURTHER ORDERS PSO shall record a deferred liability beginning on the effective date of this Order, to reflect the reduced federal corporate tax rate to 21 percent and the associated savings in excess ADIT and any other tax implications of the Act on an interim basis subject to refund until utility rates are adjusted to reflect the federal tax savings through either a final order in pending rate case PUD 201700151, or a final order in PSO's next general rate case, or as otherwise ordered by the Commission. In the event a final order in PUD 201700151 does not fully resolve this issue or PSO has not filed a general rate case within four months of this Order, PSO is directed to file a proceeding to address the impacts of the Act and establish final rates.

...

Interim Order at 4.

7. With respect to refunds, the Commission ordered that any refunds determined to be owed to customers shall accrue interest at a rate equivalent to PSO's cost of capital as recognized in Order No. 658529 issued in Cause No. PUD 201500208 until a final order is issued in PSO's pending rate cause in Cause No. PUD 201700151:

THE COMMISSION FURTHER ORDERS the amounts of any refunds determined to be owed to customers shall accrue interest at a rate equivalent to PSO's cost of capital as recognized in Order No. 658529 issued in Cause No. PUD 201500208 until issuance of a final order in PSO's pending rate case in Cause No. PUD 201700151. As of the effective date of a final order in Cause NO. PUD 201700151, interest shall begin accruing at PSO's cost of capital as determined in this subsequent proceeding.

Interim Order at 4.

Order No. 672864 (“2017 Rate Case Order”)

8. PSO filed an application for a general rate increase on June 30, 2017, Cause No. PUD 201700151. The test year in that rate case was January 1, 2016, through December 31, 2016, and the six-month post-test-year period ended on June 30, 2017. The issue of the reduction in taxes due to the pending TCJA was raised in the hearing on the merits in that cause and addressed by the ALJ in the Report and Recommendation of the ALJ at 34-35.

9. On January 31, 2018, which was after the issuance of the Interim Order in this Cause, the Commission issued its final order, Order No. 672864, in Cause No. PUD 201700151 (“2017 Rate Order”). The Commission took judicial notice of the Interim Order entered in this Cause. The Commission ordered PSO to immediately reduce its rates in the amount necessary to reflect the lower federal corporate tax rate and stated as follows:

THE COMMISSION FINDS that PSO shall immediately reduce its rates in the amount necessary to reflect the lower federal corporate tax rate of 21 percent, distributed across rate classes in proportion to their share of the revenue requirement approved in this proceeding.

2017 Rate Case Order at 6.

10. The Commission further ordered PSO to continue to record as a deferred liability, subject to refund, all other tax savings resulting from the TCJA from the time period January 9, 2018 (the date of the Interim Order) through the date of implementation of rates under the 2017 Rate Case Order, including savings through amortization of excess ADIT. The Commission ordered that the mechanism for flowing refunds back to customers for these tax savings would be addressed as set forth in the Interim Order through PSO’s next base rate case, in a separately-filed proceeding, or through a final order in the present Cause, PUD 201700572:

THE COMMISSION FURTHER FINDS that all other tax savings resulting from P.L. 115-97, including the savings from the time period of January 9, 2018, through the date of this Order, and including savings through amortization of “excess” accumulated deferred taxes (“ADIT”), shall continue to be recorded as a deferred liability subject to refund with interest at the cost of capital pursuant to the provisions of Order No. 671981. The mechanism for flowing refunds back to customers for these tax savings and the consideration of all tax impacts of P.L. 115-97 shall be addressed as set forth in Order 671981 through PSO’s next base rate case, or in a separately-filed proceeding, or through a final order in Cause No. PUD 201700572.

2017 Rate Case Order at 6.

ADIT Balance Accrual

11. The depreciable lives of PSO’s assets are set in two ways. First, the Commission approves the rate at which assets depreciate through public rate proceedings. When this

depreciation rate is set, the amount of related annual tax expense is passed on to ratepayers. Second, the federal government determines depreciation rates of those same assets for tax purposes, often allowing the Company to take advantage of accelerated depreciation in the beginning of the asset lives and reducing its early tax expense. (Quintero Resp. 7:2-7.)

12. For ratemaking purposes, PSO will collect the normalized amount of tax expense for those assets across the Commission-approved lives. In the early service years of those assets, PSO will collect a greater amount from customers than it is actually paying to the federal government, but in later years it will use this surplus balance to pay the higher tax expense once accelerated depreciation has ended. (Quintero Resp. 7:8-12.)

13. The balance currently accrued is based on what PSO knew at the time rates were set: the federal income tax rate was 35%. PSO appropriately collected the tax expense from ratepayers in accordance with this knowledge and as approved by the Commission. Now that the tax rate is lower, PSO will only pay the taxable expense at a rate of 21%, and it now has over-collected from ratepayers the necessary amount to pay those future taxes. (Quintero Resp. 7: 15-19.) PSO's cost to serve its customers going forward is now lower, and rates should be adjusted accordingly. (Quintero Resp. 8:1-2.)

Excess Tax Reserve Rider

14. All parties agree that it is appropriate for the Commission to determine the mechanism for flowing refunds back to customers for the excess ADIT and that such mechanism should be determined in this proceeding.

15. The parties generally agree that PSO should be required to implement the Rider to return tax savings to customers, particularly excess ADIT. (Farrar Direct 14:5-17:12; Quintero Resp. 11:15-12:7; Garrett Resp. 7:9-15; Fate Resp. 4:3-11.) The AG recommends that the Rider have an annual true-up mechanism that will reconcile the amounts returned to ratepayers through the Rider with the amount of excess ADIT amortized each year. (*Id.*) The AG also proposes to include the accumulated balance of the rate change savings resulting from the TCJA from the date of the Commission's Interim Order that identified the tax savings subject to refund, January 9, 2018, through the date the tax savings were included in PSO's rates, which was March 1, 2018. (Farrar Direct at 14 and Exhibit EF-5 attached thereto.)

16. PSO agrees to implement the Rider for part of the excess ADIT. (Fate Resp. at 4; Aaron Resp. at 3-4.) PSO recommends that the Rider be implemented with a true-up mechanism that would reconcile the amounts returned to ratepayers through the Rider each year with the actual amounts amortized in each year using the ARAM prescribed under the TCJA for the amortization of protected excess ADIT. (*Id.*) This true-up mechanism would allow the Company to avoid any tax normalization violations under the tax laws. (*Id.*)

17. The AG proposes the recalculation and true-up be submitted to both PUD and the AG by December 10 of each year to determine the next year's refund. The AG proposes that both parties will have ten (10) business days to respond with any disputes. (Quintero Resp. 11: 6-11 citing Farrar Direct 19: 6-13.)

18. PUD testified the Rider should be submitted for review, along with all supporting workpapers and documentation, by December 10 of each year to account for any necessary recalculation and true-up. PSO provided testimony that a December date for the annual recalculation and true-up of the Rider's rate effect be moved to January due to the timing of PSO's annual tax returns. (Tr. 5/17/18 at 6:15–7:22.) No party disputed this testimony (Tr. 5/16/17 at 45:19–46:6), and the ALJ recommends that the Commission allow PSO to propose the Rider with an annual recalculation and true-up no later than January 15.

19. PUD testified that it is not necessary to simultaneously submit the initial Rider or annual Rider revisions to other parties to this Cause. PUD already performs reviews of numerous tariff true-ups and recalculations each year. It is not standard practice for PSO to submit its other existing riders for review by parties other than PUD. Therefore, PUD does not recommend this to the Commission. (Quintero Resp. 13:16-17; 14:1-5.)

20. The ALJ does not recommend a departure from the current processing of riders and tariffs. Parties failed to present any testimony or evidence to demonstrate current PUD review is not sufficient. Additionally, no party presented compelling evidence of a need to review the initial tariff and/or the annual recalculation and true-up process. An opportunity for such review is typically conducted by parties in a ratemaking cause. The ALJ does not recommend a departure from current processes that could lead to additional litigation, single issue ratemaking and/or other causes that could unnecessarily increase customer rates due to increased litigation costs.

21. The ALJ recommends that the Rider be established to flow back to ratepayers the savings from the excess ADIT resulting from the TCJA. The rider mechanism is the most expedient and accurate method for returning the amounts of the amortization to ratepayers each year as it changes from year to year.

22. The terms of the Rider should be detailed in a Commission-approved tariff, as is the case with all other rates and charges. PSO should submit this Rider to PUD within thirty (30) days of the approval of a final order in this Cause. The Rider should accurately reflect any and all requirements contained in the final order in this Cause. The Rider should be in the same format as all of PSO's other currently approved tariffs. PSO will implement the Rider and corresponding billing factors in the first practically possible billing cycle after PUD has sent the stamped and approved tariff back to PSO. Annual recalculation and true-up of the Rider should be submitted to PUD on or before January 15 of each year and include all necessary supporting documentation and workpapers. This tariff should include a supplemental page with billing factors for each of PSO's customer classes, and this supplemental page will be subject to review and approval by PUD before the new or revised billing factors can be implemented for the subsequent year. (Quintero Resp. 14: 16-21; 15:1-5.)

PSO's Recommendation Regarding Redirection of \$81 Million of Excess ADIT

23. PSO recommends that \$81 million of excess ADIT be used to pay off the \$81 million Northeastern Unit 4 regulatory asset balance. (Fate Resp. 2:4-5.)

24. In Cause No. PUD 201500208, the Commission stated that to mitigate the overall rate increase the depreciation rate of the original cost of Northeastern Unit 4 would continue on

its then current rate to 2040. In PSO's most recent rate case, Cause No. PUD 201700151, the Commission ordered the creation of a regulatory asset for the undepreciated original cost of Northeastern Unit 4 and an amortization of the asset through 2040. The result is that future PSO customers will pay for Northeastern Unit 4 even though the plant has been retired since 2016. According to PSO witness Fate, this Cause presented a unique opportunity to significantly diminish an intergenerational inequity without raising customer's current rates by applying part of the unprotected excess deferred tax to the elimination of the Northeastern Unit 4 regulatory asset. The elimination of the regulatory asset results in an additional \$2.95 million of avoided amortization expense which PSO proposed to be refunded to customers through the Excess Tax Rider in 2018. (Fate Resp. 5:6-18.)

25. The AG was opposed to PSO's recommendation stating that the order in PSO's last rate case specified that PSO would be allowed to recover carrying costs for Northeastern Unit 4 at PSO's cost of debt. The cost of debt return for Northeastern Unit 4 was expected to be lower throughout the remaining amortization period than the cost of capital return earned by excess ADIT. Customers would be worse off with PSO's proposal. (Farrar Reb. 6:3-7.)

26. OIEC witness Garrett filed Rebuttal Testimony recommending that the Commission reject PSO's proposal to use unprotected excess ADIT to pay off the Northeastern Unit 4 balance. According to Mr. Garrett, the issue of the Northeastern Unit 4 recovery period had been extensively litigated and the Commission had determined that the Northeastern Unit 4 balance should be recovered over the useful life of the plant before it was retired. Mr. Garrett argued the effect of PSO's recommendation would be to reverse the Commission's decision to recover the Northeastern Unit 4 balance over the useful life of the plant before it was retired. (Garrett Reb. 7:13-19.)

27. PSO provided testimony that while it was true the Commission had recently reaffirmed their prior determination that the amortization of Northeastern Unit 4 should continue through 2040, in the last rate case part of the justification for the amortization period was to mitigate current customer rate increases. There is now new information with respect to the tax changes and the creation of the excess ADIT that was information the Commission did not have the last two times that it considered the amortization period. (Tr. 5/16, p 48, lns 7-17.)

28. OIEC witness Garrett testified that PSO's proposal would eliminate most of the unprotected excess ADIT amortization, which would cost ratepayers about \$3.5 million per year and create a net loss to ratepayers of \$0.6 million per year. (Garrett Reb. at 6.)

29. PSO witness Fate testified that he did not calculate how much customers would be harmed by offsetting an asset earning a debt return with a liability earning a full cost of capital. (Tr. 5/16 at p 55.)

30. The ALJ recommends the Commission reject PSO's proposal to utilize \$81 million of excess ADIT to offset costs claimed for the Northeastern Unit 4. PSO's Northeastern Unit 4 proposal would cost ratepayers and create an overall net loss. Rejection of PSO's proposal does not harm PSO because Northeastern Unit 4 was fully addressed in the 2017 Rate Case Order.

Protected Excess ADIT

31. Protected excess ADIT refers to the portion of total excess ADIT associated with assets that must be paid in accordance with the federally-mandated ARAM. (Quintero Resp. 8:4-5.)

32. The Rider should include a true-up mechanism to reconcile the amounts returned to ratepayers through the Rider each year with the actual amounts amortized in each year using the ARAM prescribed under the TCJA for the amortization of protected excess ADIT.

Unprotected Excess ADIT

33. Unprotected excess ADIT is the portion of total excess ADIT not federally-mandated to be returned using the ARAM. (Quintero Resp. 8:9-10.)

34. The Commission can determine the period of time over which the unprotected excess ADIT may be returned to ratepayers because amortization of unprotected ADIT is not restricted by the tax code. (Garrett Reb. at 6.)

35. The unprotected excess ADIT is not constrained by the Tax Code. (Fate Reb. at 51.) Therefore, the recovery period for the unprotected excess ADIT, or the period in which it is flowed back to customers, is a matter of policy for the Commission to determine. (*Id.*)

36. The AG proposes amortizing the unprotected portion according to the average remaining life of PSO's assets, 27.75 years. (Quintero Resp. 10: 24; 11: 1 *citing* Farrar Direct 12: 20-21; 13: 1-3.)

37. PUD testified that a simple 27.75-year straight-line amortization is a reasonable approach to return the unprotected portion of ADIT. A shorter amortization period could put ratepayers at risk of rate shock when the Rider reaches its expiration, and a longer period may unnecessarily delay the savings to ratepayers. (Quintero Resp. 12: 10-14.) PSO currently estimates the excess balance of unprotected ADIT to be \$72.4 million, before it is grossed up for taxes. If amortized over the remaining useful life of PSO's assets, the result for 2018 is \$2.6 million, before it is grossed up for taxes. (Quintero Resp. 8: 11-13; Exh. ZJQ-4 PSO Supp. Resp. to AG DR 1-3.)

38. OIEC witness Garrett recommended in his Rebuttal Testimony that the unprotected excess ADIT, with a balance of \$72.4 million (or \$97 million grossed up for tax) be returned to ratepayers over a 10-year period, rather than the 27.75 period. (Garrett Reb. 6-8.) Mr. Garrett testified that a 10-year amortization period for the unprotected excess ADIT would result in a \$9.7 million savings for ratepayers each year. (Garrett Reb. 6-8.) Mr. Garrett testified that a shorter period is warranted because money in the excess ADIT accounts represents prepaid taxes that, with the enactment of the TCJA, will never be remitted to the IRS. (Garrett Reb. 7.) Mr. Garrett testified that the unprotected excess ADIT should be returned as much as possible to ratepayers who made the overpayments. (*Id.*) The longer the amortization is stretched out, the less likely it is that ratepayers who overpaid these taxes will be refunded the money they overpaid. (*Id.*)

39. The ALJ recommends that the unprotected excess ADIT should be amortized over a ten year period.

Proposed January and February 2018 Refund

40. The Commission, in its 2017 Rate Case Order included the lower annual tax expense resulting from the TCJA in PSO's revenue requirement from the date that rates under that Order went into effect, which was March 1, 2018. The January 2018 and February 2018 savings were not addressed. However, the Commission, in its Interim Order in this Cause and in the 2017 Rate Case Order specifically directed that PSO accrue and record a deferred liability from January 9, 2018, to reflect the reduced federal corporate tax rate and associated savings in excess ADIT until the final rate order in PSO's pending rate case went into effect. (Interim Order at 4, entered on January 9, 2018; 2017 Rate Case Order at 6.) The Commission further ordered that any refunds due ratepayers would accrue interest. (*Id.*)

41. PSO witness Fate agreed that the Interim Order and the 2017 Rate Case Order contained the above provisions. (Tr.5/16 at 70-71, 72-74.) However, PSO recommends that these savings be kept for PSO shareholders and not returned to the ratepayers. PSO's justification for this recommendation is that PSO reported a net loss in January and February 2018, in regulatory filings. (Tr. 5/16 at 58.) However, Mr. Fate testified on cross-examination that PSO did not make any regulatory filings evidencing a net loss for January and February 2018. (*Id.*)

42. All parties except PSO testified there should be a refund of the January and February 2018 savings. (Tr. 5/16 at 60.)

43. The provisions of the Interim Order and the 2017 Rate Case Order unambiguously require PSO to accrue and record a deferred liability from January 9, 2018, until the 2017 Rate Case Order went into effect, which was March 1, 2018. PSO's claimed justification for keeping the savings from January 9, 2018, through February 28, 2018, is not supported by evidence.

44. The ALJ recommends that the excess income tax collected from customers from January 9, 2018, through February 28, 2018, together with interest at a rate equivalent to PSO's cost of capital, be included and returned to ratepayers in 2018 through the Rider.

Return on Excess ADIT from July 1, 2017, to December 31, 2017

45. The AG recommended that the Rider include the return on excess ADIT balances related to the increase in ADIT from July 1, 2017, to December 31, 2017, until PSO's next rate case. (Farrar Direct 7:14-18, 15:21-23.) He calculated this amount to be \$4.7 million. (Farrar Direct 18:5-6.)

46. PUD agreed with the AG on the basis of Commission Order No. 671981, which instructs PSO to record a deferred liability subject to refund that is inclusive of the corporate income tax rate change and all associated savings in excess ADIT. (Quintero Resp. 12:1-4.)

47. PSO's tax expert, James Warren, disagreed with the recommendation, stating that the provision of a return on that amount would not be permitted by the tax depreciation Normalization Rules "Normalization Rules" (Warren Resp. 5:8-11).

48. According to Mr. Warren, the basic problem was that the imposition of a return on the portion of excess tax reserve that was not included in PSO's last rate case would amount to recognizing in rates certain changes in ADIT that occurred between July 1, 2017, and December 31, 2017, without also recognizing changes in the other components of rate base that occurred during that period such as plant in service. This runs afoul of an aspect of the Normalization Rules, commonly referred to as the Consistency Rule. (Warren Resp. 5:17-22.)

49. Mr. Warren further testified that the determination of whether the AG's adjustment was a normalization violation is not a regulatory determination, it is an IRS determination. (Tr. 5/16, 105:15-18.)

50. Mr. Warren also testified that in Mr. Farrar's Rebuttal testimony, there was simply a bold statement that there was no normalization violation in his interest calculation. Mr. Farrar did not address Mr. Warren's testimony that discussed the statute and the regulatory background underlying the law, the purpose of the law and all of the reasons why Mr. Warren concluded that Mr. Farrar's proposal was problematic. (Tr. 5/16, 106:13-22.)

51. The AG argued that PSO has had a fair and open opportunity to present changes in rate base that occurred between July 1, 2017, and December 31, 2017. (Farrar Reb 4:21-5:5.)

52. The ALJ rejects the AG's suggestion that PSO should have updated all changes to its rate base to December 31, 2017, to eliminate the normalization violation. Such updates would have drawn the parties far outside the scope of this proceeding.

53. The ALJ recommends that any excess ADIT from July 1, 2017, to December 31, 2017, be addressed in PSO's next rate case, if appropriate, so that there is no violation of Normalization Rules or other costly IRS determination.

Line Item on Customer Bill

54. The AG and OIEC recommend the credit for the Rider be a visible line on PSO's customer bills.

55. PUD does not agree that the Rider should be a visible line item on PSO's customer bills. Other than the Fuel Adjustment Rider, no other currently approved rider appears as a line item on PSO's customer bills. The excess tax reserve represents a change in PSO's cost to serve its customers, though in this instance it returns revenue to ratepayers rather than extracting it. PUD does not believe there should be any difference in transparency for riders that increase or decrease a customer bill. PUD supports the proposed Rider being visible on a customer bill only if all other currently approved riders are also made visible line items. (Quintero Resp. 14: 7-14.)

56. The ALJ recommends no difference in transparency for riders that increase or decrease a customer bill. If customers perceive that a customer billing practice displays riders

that decrease a customer bill but hides riders that increase a customer bill there could be unforeseen and unintended negative consequences. However, listing every single rider on every bill could also cause general customer confusion as well as unforeseen and unintended negative consequences.

57. The ALJ recommends a one-time notation to customer bills on the first practically possible billing cycle following a final order in this Cause. This one-time notation will serve to alert customers to initial changes to customer bills due to the TCJA.

Recommendation as to Customer Impact Information

58. The ALJ believes this ALJ report recommends an estimated \$428 million be returned to ratepayers through the Rider. The ALJ recognizes this estimate may not reflect the regulatory practice of "grossing up" for tax purposes.

59. The ALJ directs PSO to provide to all the parties an exhibit that demonstrates an estimated average residential customer impact number based upon recommendations contained in this ALJ report. The ALJ requests that this exhibit be filed in this Cause within five business days of the filing of this report.

Respectfully submitted this 27 day of June, 2018.



MARY CANDLER
Administrative Law Judge

Cc:

Commissioner Murphy
Commissioner Hiett
Commissioner Anthony
Teryl Williams
Nicole King
Matt Mullins
James L. Myles
Elizabeth A.P. Cates
Maribeth D. Snapp
Theresa Cooper
Jack P. Fite
Joann S. Worthington
Thomas P. Schroedter
Deborah R. Thompson
Dara M. Derryberry
Jared B. Haines
Natasha M. Scott
Michael L. Velez

FILED
APR 12 2018

EXHIBIT "A"
TESTIMONY SUMMARIES

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

APPLICATION OF MIKE HUNTER, THE)
ATTORNEY GENERAL OF OKLAHOMA,)
TO LOWER THE RATES AND CHARGES)
FOR ELECTRIC SERVICE AND PROVIDE)
FOR ANY REFUND DUE TO THE)
CUSTOMERS OF PUBLIC SERVICE)
COMPANY OF OKLAHOMA RESULTING)
FROM THE TAX CUTS AND JOBS)
ACT OF 2017)

CAUSE NO. PUD 201700572

**Summary of the Direct Testimony of Edwin C. Farrar
on Behalf of Mike Hunter, Oklahoma Attorney General**

Mr. Edwin C. Farrar submitted pre-filed direct testimony on behalf of Mike Hunter, Attorney General of the State of Oklahoma. In his testimony, Mr. Farrar testified regarding his educational and professional background as a Certified Public Accountant working on regulatory matters primarily before the Oklahoma Corporation Commission ("Commission"). He noted that he had previously testified before the Commission and that his qualifications as an expert on accounting and regulatory matters have been accepted.

Mr. Farrar recommended that Public Service Company of Oklahoma ("PSO") be required to establish a rider to ensure the return of excess Accumulated Deferred Income Tax ("ADIT") and other tax savings to customers. He described how differences between tax accounting rules and other accounting rules result in "book/tax" differences. He explained that these differences often result in customers paying higher tax expenses for assets in rate base at the beginning of those assets' lives, while paying lower tax expenses later. The higher early expenses, he explained, are recorded in the ADIT account based on the expected future tax liabilities. Mr. Farrar noted that the excess ADIT balance is treated as a source of cost-free capital to utilities, meaning the balance offsets a portion of rate base along with the return requirement associated with that portion of rate base.

*Cause No. PUD 201700572
Public Service Co. of Oklahoma
Summary of Direct Testimony of Edwin C. Farrar*

The Tax Cuts and Jobs Act of 2017 results in a portion of the ADIT account being unnecessary to pay future tax liabilities, Mr. Farrar explained. He testified that the ADIT balances were calculated using the older federal income tax rate of 35 percent, while PSO and other utilities face a 21 percent tax rate. The difference between those rates has become “excess ADIT” or an “excess tax reserve,” Mr. Farrar testified. The excess ADIT balance reflects the amount of funds no longer necessary to pay future tax liabilities. For PSO, the excess ADIT balance stands at approximately \$532 million, Mr. Farrar noted.

Mr. Farrar recommended that, because excess ADIT is simply preexisting ADIT, it should continue to be treated as a source of cost-free capital that offsets a portion of rate base and customer rates. He also recommended that, because excess ADIT would not need to be drawn down to pay future tax liabilities, it should be returned to customers instead. He noted that utility rates are set based on the cost to provide service; since customers previously paid to fund the excess ADIT balance and it is no longer necessary for tax expenses, the amount should be returned to customers. Mr. Farrar noted that the Commission had already supported this approach in its Order No. 671,981 in Cause No. PUD 201700572.

According to federal law, a portion of the excess ADIT balance can be returned to customers no faster than it would have been paid as taxes prior to the Tax Cuts and Jobs Act, Mr. Farrar explained. The amount available would thus have to be calculated differently each year based on records for specific assets, and this amount is sometimes called the “protected” excess ADIT. Another portion of “unprotected” excess ADIT could be returned more quickly—generally thought to be the remaining average lives of utility assets. PSO had not provided the exact amount available for 2018 or later years of “protected” ADIT at the time Mr. Farrar filed his direct

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Public Service Co. of Oklahoma
Summary of Direct Testimony of Edwin C. Farrar*

testimony. He provided an estimate for discussion purposes, however, of about \$10.1 million for 2018.

Mr. Farrar recommended that excess ADIT along with other amounts, including the regulatory liability created by Order No. 671,981 in Cause No. PUD 201700572 and the return on new excess ADIT not reflected in PSO's base rates, be returned through a new Excess Tax Reserve rider. Mr. Farrar recommended that the rider be recalculated each year with a true-up in December, based on the return of excess ADIT for the following year. He also recommended that the rider should appear as a line item on customer bills. Overall, if implemented for 2018 values, Mr. Farrar calculated that \$17.9 million could be returned to customers for the year.

Cause No. PUD 201700572
Public Service Co. of Oklahoma
Summary of Direct Testimony of Edwin C. Farrar

CERTIFICATE OF SERVICE

On this 12th day of April, 2018, a true and correct copy of the above and foregoing
Summary of Direct Testimony of Edwin C. Farrar on Behalf of Mike Hunter, Oklahoma Attorney

General was sent via electronic mail to the following interested parties:

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VICTORIA D. KORREECT
Paralegal, Utility Regulation Unit
OKLAHOMA ATTORNEY GENERAL

BEFORE THE CORPORATION COMMISSION OF OKLAHOMA

APPLICATION OF MIKE HUNTER, THE)
 ATTORNEY GENERAL OF OKLAHOMA, TO)
 LOWER THE RATES AND CHARGES FOR)
 ELECTRIC SERVICE AND PROVIDE FOR ANY) CAUSE NO. PUD 201700572
 REFUND DUE TO THE CUSTOMERS OF PUBLIC)
 SERVICE COMPANY OF OKLAHOMA)
 RESULTING FROM THE TAX CUTS AND JOBS)
 ACT OF 2017

SUMMARY OF THE RESPONSIVE TESTIMONY OF

STEVEN L. FATE

ON BEHALF OF

PUBLIC SERVICE COMPANY OF OKLAHOMA

MAY 2018

FILED
 MAY 08 2018

COURT CLERK'S OFFICE - OKC
 CORPORATION COMMISSION
 OF OKLAHOMA

Mr. Steven L. Fate, Vice President, Regulatory and Finance for Public Service Company of Oklahoma (PSO or Company), an operating company subsidiary of American Electric Power Company, Inc. (AEP), testified on behalf of PSO.

According to Mr. Fate, the issue before the Commission is how to provide the value of excess deferred income taxes to customers. Mr. Fate testified that as noted by Mr. Farrar, deferred taxes (including any excess) are a source of cost-free capital and the value of excess deferred taxes reduce a utilities' rate base. The effect of this cost free capital means customers receive a return on the excess deferred taxes at the utility's weighted average pre-tax cost of capital.

Mr. Fate recommended the Commission utilize a combination of two methods to provide the principal value to PSO's customers. The first method is a refund of a portion of the excess deferred taxes through a separate excess tax reserve rider. The second method is cost reduction where the Commission could order the use of excess deferred taxes or more specifically, a portion of the amortization of excess deferred taxes, to reduce other costs of PSO that will be borne by customers.

Mr. Fate testified that PSO agreed to refund excess tax reserve through a rider as recommended by Mr. Farrar.

In addition to directly refunding most of the excess deferred tax to customers through a rider, PSO also recommends the Commission approve approximately \$81 million of the total \$426 million excess ADFIT to reduce other expenses. With \$81 million set aside for the reduction of other PSO costs, and the reduced expenses therefrom, along with other updated assumptions, the Company recommends a refund of \$12.1 million in 2018.

According to Mr. Fate, in Cause No. PUD 201500208 the Commission stated that to mitigate the overall rate increase, the depreciation rate of the original cost of Northeastern Units 3 and 4 should continue on its current rate to 2040 – fourteen and twenty-four years past their planned retirement dates, respectively. In PSO’s most recent rate case, Cause No. PUD 201700151, the Commission ordered the creation of a regulatory asset for the undepreciated original cost of Northeastern Unit 4 and an amortization of the asset through 2040. The result is that future PSO customers will pay for Northeastern Unit 4 even though the plant has been retired. This Cause presents a unique opportunity to significantly diminish that intergenerational inequity without raising customer’s current rates by applying part of the unprotected excess deferred tax to the elimination of the Northeastern Unit 4 regulatory asset. With the elimination of the regulatory asset an additional \$2.95 million of avoided amortization expense will be refunded to customers through the Excess Tax Rider in 2018.

PSO believes this approach solves two important issues at once, by refunding a substantial part the principal value to customers, \$345 million, and by applying \$81 million to fully amortize the Northeastern Unit 4 regulatory asset in 2018 thereby eliminating the intergenerational inequity while lowering rates.

As an example of the Commission applying Federal Income Tax reductions to other utility costs in the past, Mr. Fate testified to what the Commission decided regarding the 1986 Tax Reform Act (“TRA”) on Oklahoma utilities (Cause No. PUD 000260). PSO did not oppose the motion. The Commission found: "The Commission further finds that PSO and the Staff should be directed to consider the investment and expenses attributable to Oklaunion and the Comanche retro-fit project as an off-set to the cost savings which may result from the 1986

Tax Reform Act. This investigation should occur in the context of PUD Cause No. 000260." (At page 2).

PUD witness Linnenbrink testified that the Oklahoma and Comanche retro-fits more than off-set the tax reduction. (Order 317294 pages 6 and 7). The Commission approved the rate reduction recommendations proposed by Ms. Linnenbrink.

Mr. Fate further testified that Mr. Farrar recommends that PSO refund \$3.1 million through an excess tax reserve rider due to excess income tax expense being included in rates from January 9, 2018, through February 28, 2018 (page 16, line 4 through line 13).

According to Mr. Fate, reviewing only one expense item that was reduced, income taxes, for the months of January and February 2018, is too narrow of a review to determine if a refund is appropriate. A broader review demonstrates that PSO's base rates were inadequate to recover its costs in those two months even after the tax rate reduction is taken into consideration. This can be demonstrated several ways. First, PSO reported a net loss in both months totaling approximately \$4.7 million. Therefore, there are no income tax savings to refund to customers. Second, Mr. Fate testified that as of the end of March 2018, PSO's twelve-month trailing earned return on common equity was 5.19% (\$62.9 million net income / \$1,212 million average common equity), well below the newly authorized return on common equity of 9.3% from Cause No. PUD 201700151. Even if PSO had recognized the additional \$3.1 million of revenues, its earned return on common equity would still be more than 300 basis points below its authorized return on common equity.

In Rebuttal testimony Mr. Fate testified that Mr. Garrett's recommendation to return excess accumulated deferred income taxes (ADIT) to ratepayers for AEP Oklahoma Transmission Company (OK Transco) and AEP Service Corporation (AEPSC) through a rider

should be rejected. These costs are part of base rates where some costs go up and others down between base rate cases. Singling out one component in base rates to reduce rates is not necessary, particularly when the Company's earned Return on Common Equity (ROE) is substantially below its authorized ROE. According to Mr. Fate, PSO does not procure transmission services from OK Transco and instead procures transmission service from the Southwest Power Pool (SPP) for which OK Transco is one transmission owner that combines with various other transmission owners to provide transmission service to PSO. In other words, PSO does not directly pay OK Transco, but instead, as a transmission customer, pays SPP.

Mr. Fate testified that he disagreed with Mr. Garrett for several reasons. First, these are not PSO's income taxes and are beyond the scope of this proceeding. Rather, they are one of many costs that make up the cost of service for OK Transco and AEPSC. The Commission should not single out one component, excess ADIT, of the many cost components of OK Transco and AEPSC costs and require a refund of excess ADIT when a surcharge of other components might be warranted.

Secondly, PSO does not procure any services from OK Transco. Instead, it procures transmission service from the SPP. In supplying transmission service to PSO, SPP utilizes the assets of many transmission owners for which OK Transco is one. Said differently, PSO does not directly pay OK Transco, but instead pays SPP according to its OATT, as a transmission customer. In turn, SPP collects money from all of its transmission customers, for which PSO is one, and then compensates transmission owners, including OK Transco, their appropriate share. It is not proper to require a refund when PSO does not directly procure transmission service from OK Transco, or any other transmission owner for any direct expense.

Mr. Fate did not agree with Mr. Garrett's conclusion regarding other Commission's activities regarding ADIT.

Mr. Fate testified that although he had not conducted a comprehensive survey to determine the status of all dockets across the country, there are few that have been completed at this time with definitive outcomes. Moreover, there are examples of where utilities have requested alternative uses of the excess ADIT. Therefore, according to Mr. Fate, the Commission should reject Mr. Garrett's conclusion that the treatment of the TCJA in other states supports his conclusion that all excess ADIT amortization should be returned to customers through a rider.

BEFORE THE CORPORATION COMMISSION OF OKLAHOMA

APPLICATION OF MIKE HUNTER, THE)
ATTORNEY GENERAL OF OKLAHOMA, TO)
LOWER THE RATES AND CHARGES FOR)
ELECTRIC SERVICE AND PROVIDE FOR ANY)
REFUND DUE TO THE CUSTOMERS OF PUBLIC)
SERVICE COMPANY OF OKLAHOMA)
RESULTING FROM THE TAX CUTS AND JOBS)
ACT OF 2017)

CAUSE NO. PUD 201700572

FILED
MAY 08 2018

COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

SUMMARY OF THE RESPONSIVE TESTIMONY OF

JAMES I. WARREN

ON BEHALF OF

PUBLIC SERVICE COMPANY OF OKLAHOMA

MAY 2018

Mr. James I. Warren, tax partner in the law firm of Miller & Chevalier Chartered (“M&C”), testified on behalf of PSO.

Mr. Warren specializes in the taxation of, and the tax issues relating to, regulated public utilities. Included in this area of specialization is the treatment of taxes in regulation.

Mr. Warren earned a B.A. (Political Science) from Stanford University, a law degree (J.D.) from New York University School of Law, a Master of Laws (LL.M.) in Taxation from New York University School of Law and a Master of Science (M.S.) in Accounting from New York University Graduate School of Business Administration. He is a member of the Bar in the District of Columbia, New York and New Jersey and is licensed as a Certified Public Accountant in New York and New Jersey.

Mr. Warren addressed the recommendation of Mr. Edwin C. Farrar that the Commission implement a Rider for the Company’s excess tax reserve (“ETR”) which charges the Company a return on that portion of the ETR which was not included in the rate base of its last rate case. Mr. Warren disagreed with this recommendation. Such a Rider would consider in ratemaking a portion of the Company’s accumulated deferred federal income taxes (“ADFIT”) that came into being only after the end of the test period for the last rate case while failing to consider the changes in the rest of the Company’s ADIT created during that period or the changes in the Company’s plant investment occurring during that period. This application of inconsistent regulatory procedures to the various elements of rate base would violate the Consistency Rule (Code §168(i)(9)(B)) – an aspect of the tax Normalization Rules. Such a violation would cause the Company to become ineligible to claim accelerated depreciation for tax purposes.

Mr. Warren testified regarding the ETR. According to Mr. Warren in years between 1988 and 2017, when PSO claimed (and was able to use) tax deductions in excess of its book expenses – most particularly accelerated (including bonus) tax depreciation - it reduced its federal corporate tax return taxable income and, hence, its income tax liability by an amount equal to the incremental tax deduction multiplied by the corporate tax rate (34 or 35%, depending on the year). The cash benefit of the income tax reduction was retained by PSO, recorded as ADFIT and reflected in ratemaking as an offset to rate base. This amount was recorded as a liability because it was anticipated that the amount would eventually have to be paid back to the government in the form of higher income taxes when, later on in the life of the depreciable assets, book depreciation would exceed the available tax depreciation deductions. However, the recent reduction in the federal income tax rate altered the amount of the anticipated liability. When, eventually, the higher taxable income is produced, under current tax law it will be taxed at 21%, not 34 or 35%. Consequently, some portion of the ADFIT reserve previously recorded on the presumption that the future income would be taxed at 34 or 35% is rendered unnecessary for that purpose. This unnecessary amount is the ETR. It is equal to approximately 40% of the ADFIT balance (35%-21% or 14% divided by 35%).

Mr. Warren disagreed with Mr. Farrar's proposal because the provision of a return on that amount is not permitted by the tax depreciation normalization rules ("Normalization Rules").

Mr. Warren testified that PSO's last rate case used a test period ending December 31, 2016, which was updated through June 30, 2017. The basic problem is that the imposition of a return by Mr. Farrar on the portion of the ETR that was not included in PSO's last rate case will amount to recognizing in rates certain changes in ADFIT that occurred between July 1,

2017 and December 31, 2017 without also recognizing in rates changes in the other components of rate base that occurred during that period such as plant in service. According to Mr. Warren, this runs afoul of an aspect of the Normalization Rules commonly referred to as the Consistency Rule.

Mr. Warren testified that the Normalization Rules are a part of the federal income tax laws that authorize businesses to claim accelerated depreciation for tax purposes. Accelerated depreciation (including bonus depreciation) is intended to subsidize the capital cost of certain depreciable business assets through the tax system. The resulting deductions defer income tax that would otherwise be payable, producing what is, in effect, a zero-cost loan to the owner of the assets. The Normalization Rules generally prevent the benefit of accelerated tax depreciation claimed by regulated utilities from being extracted through the rate-setting process and redirected towards lowering utility customer rates, thereby converting what was intended to be a business investment subsidy (which also inured to the benefit of customers) into a direct consumption subsidy.

According to Mr. Warren, because of the nature of the utility ratemaking process, this benefit is susceptible of being redirected to immediately reduce customer rates in two ways: (1) the direct flow-through of the benefit to ratepayers by means of a reduction in the tax expense element of cost of service, and (2) the provision to customers of the financial benefit attributable to the tax deferral produced by accelerated depreciation by recognizing the associated ADFIT as zero-cost capital (usually accomplished by reducing rate base by the ADFIT balance).

Mr. Warren further testified that public utilities are entitled to use accelerated methods of tax depreciation with respect to their depreciable assets only if they utilize a “normalization

method of accounting.” Where such a method is not used, a utility may only claim regulatory depreciation for tax purposes.

The Normalization Rules prohibit the direct flowing through of the tax benefits of accelerated depreciation by reducing the tax element of cost of service. They accomplish this by requiring that any tax deferral attributable to accelerated depreciation be reflected in a reserve account. This produces deferred tax expense and makes sure that the cash flow benefits of accelerated depreciation are retained by the utility. The Normalization Rules do, however, permit utilities to provide customers the “zero-cost” benefit produced by claiming accelerated depreciation.

Mr. Warren described the restriction on the provision of this “zero cost” benefit. In recognition of the fact that some of the benefit of accelerated tax depreciation can also be inappropriately extracted by manipulating the amount of ADFIT that is treated as zero-cost capital, the Normalization Rules limit the ADFIT balance by which rate base may be reduced (or which may be otherwise treated as zero-cost capital). They do not permit rate base to be reduced by an amount of ADFIT in excess of the amount that has been reflected (or is projected to be reflected) in cost of service during the measurement period (hereafter, the “Limitation”).

Mr. Warren testified that PSO’s rates now in effect were established by reference to its rate base (including its ADFIT balance) as of June 30, 2017. In that rate proceeding, net plant and other components of rate base were reduced by the ADFIT balance as of that date. That balance included ADFIT that, as a result of the recent tax legislation, has been rendered “excess” (though it was not “excess” at the time rates were set because the federal income tax rate had not yet been reduced). In the six months between June 30, 2017 and the end of 2017,

PSO produced additional ADFIT, some portion of which likewise was rendered “excess” by the enactment of the tax rate reduction. Mr. Farrar proposes to apply a return to this additional amount of ADFIT.

This proposal implicates the consistency rules according to Mr. Warren.

PSO’s ADFIT balance as of December 31, 2017, contains deferred taxes created by plant that was not even owned by the Company as of the end of its last rate case test period (June 30, 2017). And, even in the case of assets that were owned by PSO as of June 30, 2017, the December 31, 2017, ADFIT balance includes deferred taxes that were produced by book and tax depreciation that occurred after June 30, 2017. Some of both types of these incremental deferred taxes are inevitably included the ETR to which Mr. Farrar proposes to apply a return. In fact, it is precisely because these amounts were not incorporated into existing rates that Mr. Farrar seeks to apply a return to them. In other words, if Mr. Farrar’s proposal is adopted, PSO’s rates will be established using a rate base calculation for the period ended June 30, 2017, except that they will reflect a “negative return” applicable to a portion of the deferred taxes produced during a period that occurred after the end of that test period.

Mr. Warren further testified that the Company’s ETR consists of a portion of what, immediately before January 1, 2018, was its ADFIT balance. This ADFIT balance was provided pursuant to the mandate of the Normalization Rules. The reduction in the tax rate did not change the nature of the ETR from what it was before. The ETR continues to be subject to the Normalization Rules, which is why there is a limitation on the rate at which they can be flowed through to customers. In fact, the law that reduced the tax rate requires that the ETR be reduced no more rapidly than under the average rate assumption method (“ARAM”). From a Normalization Rule perspective, the ETR remains part of PSO’s ADFIT balance – regardless

of what account it resides in. Calling it a regulatory liability in no way alters its fundamental nature. Applying a return to PSO's post-test period incremental ETR is the same as applying a return to a portion of its post-test year incremental ADFIT. It is for this reason that Mr. Farrar's proposal would violate the Consistency Rule according to Mr. Warren.

If PSO violated the normalization rules, the Company would thereafter be prohibited from claiming accelerated depreciation. It could claim only regulatory depreciation for tax purposes. If that were to occur, the Company would, in the future, create no more depreciation-related deferred taxes. In the meantime, its existing ADFIT balance would diminish as the underlying timing differences reverse. This inability to generate additional cost-free capital in conjunction with the depletion of PSO's existing stock of cost-free capital would have a serious and long-term negative impact on customers. As a result of the "run off" of the Company's deferred tax balance, the rate base offset customers have long enjoyed would shrink and, eventually, disappear. Thus, rate base would significantly increase - and with it electric rates. The cost-free capital that would otherwise be available would have to be replaced by capital having a cost, and that cost would be borne by customers.

BEFORE THE CORPORATION COMMISSION OF OKLAHOMA

APPLICATION OF MIKE HUNTER, THE)
 ATTORNEY GENERAL OF OKLAHOMA, TO)
 LOWER THE RATES AND CHARGES FOR)
 ELECTRIC SERVICE AND PROVIDE FOR ANY) CAUSE NO. PUD 201700572
 REFUND DUE TO THE CUSTOMERS OF PUBLIC)
 SERVICE COMPANY OF OKLAHOMA)
 RESULTING FROM THE TAX CUTS AND JOBS)
 ACT OF 2017)

SUMMARY OF THE RESPONSIVE TESTIMONY OF
 RANDALL W. HAMLETT
 ON BEHALF OF
 PUBLIC SERVICE COMPANY OF OKLAHOMA

MAY 2018

FILED
 MAY 08 2018

COURT CLERK'S OFFICE - OKC
 CORPORATION COMMISSION
 OF OKLAHOMA

Mr. Randall W. Hamlett, Director of Regulatory Accounting Services for American Electric Power Service Corporation (AEPSC), a subsidiary of American Electric Power Company, Inc. (AEP), testified on behalf of PSO.

PSO has updated the estimated values of excess deferred taxes since Mr. Farrar filed his Direct Testimony, though they are still subject to modification when the 2017 federal income tax return is filed later this year. These updated estimates should be utilized by the Commission for any decision it makes in this proceeding. Finally, since these amounts are further subject to update, PSO needs flexibility to comply with the Average Rate Assumption Method (ARAM) used in amortizing excess protected deferred taxes should amounts change when the federal income tax return is filed to avoid a normalization violation that would have a long-term negative impact on PSO's customers. This flexibility can come from either a true-up in the refund rider to the actual ARAM value, or the Commission providing PSO the ability to move amortization of excess deferred taxes between the "protected" and "unprotected" buckets to avoid over amortizing the "protected" bucket.

Mr. Hamlett testified that PSO updated the estimated excess deferred income taxes and associated estimated amortization for the year 2018. The Commission should use the supplemental values as they represent the best estimates at this time. The best estimate of the "protected" amortization from PSO's tax software with the ARAM method for 2018 is \$7.2 million which should be utilized. Regarding the amortization of "unprotected" over 27.75 years, the best estimate is \$2.6 million on an annual basis. These amounts do not represent PSO's recommendation as detailed in the responsive testimony of Mr. Fate, but are simply an update to the numbers provided to the AG.

Mr. Hamlett testified that the requirements from Order No. 671981 began on January 9, 2018.

Mr. Hamlett further testified that Mr. Farrar utilized total year amounts which inappropriately included the first eight days of the year. In compliance with Order No. 671981, the 2018 annual amortization of “protected” excess deferred taxes should reflect 357 days. In addition, Mr. Farrar did not adjust for the amount included in Cause No. PUD 201700151 (Section J – Schedule 2). This amount should be removed to avoid refunding the value twice. The appropriate amount for this Cause is \$6,377,186 $((\$7,192,092 - \$672,000) * 357 / 365)$ prior to gross-up.

Mr. Hamlett testified that the amount of refund based upon Mr. Fate’s recommended is as follows:

Description	2018 Refund Amount (Millions)
Protected Excess ADIT	\$8.6
Unprotected Excess ADIT	.6
Northeastern Unit 4 Amortization	2.9
Total Refund	\$12.1

Mr. Hamlett proposed that the rider contain a true-up mechanism so that the “protected” value refunded to customers matches the actual ARAM amount to avoid a normalization rules violation.

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 REFUND DUE TO THE CUSTOMERS OF PUBLIC)
 SERVICE COMPANY OF OKLAHOMA)
 RESULTING FROM THE TAX CUTS AND JOBS)
 ACT OF 2017)

SUMMARY OF THE RESPONSIVE TESTIMONY OF

JOHN O. AARON

ON BEHALF OF

PUBLIC SERVICE COMPANY OF OKLAHOMA

MAY 2018

FILED

MAY 08 2018

COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

Mr. John O. Aaron, Manager, Regulated Pricing and Analysis in the Regulatory Services Department of American Electric Power Service Corporation (AEPSC), a subsidiary of American Electric Power Company, Inc. (AEP), testified on behalf of PSO.

Mr. Aaron testified that the rider proposed by PSO ("Excess Tax Reserve" rider) is designed to return to customers \$12.1 million annually, as a percentage reduction to the customer's base rate charges. The percentage reduction will be recalculated annually and appear as a separate line item on the customer's bill.

According to Mr. Aaron the base rate charges include all charges billed in accordance with the Monthly Rate section of the applicable rate schedule. The base rate charge includes where applicable the Base Service Charge, the Energy Charge, the Demand Charge, any Minimum Bill Charge, the Reactive Power Charge, the Facilities Charge for the Lighting tariff schedules, and to Standby and Supplemental Service Charges. The rider does not apply to fuel charges or other monthly rider charges.

Mr. Aaron further testified that the percentage reduction is based on the \$12.1 million tax benefit as a percentage of the base rate charges described above. For the initial twelve-month period, the base rate charges will reflect the base rate revenue requirement set forth in PUD Cause No. 201700151 since the rates approved in that proceeding have not been in place for twelve months. After the initial twelve-month application of the rider, the subsequent annual redeterminations will be based on the most recent twelve-month period base rate charges describe above. The annual update to reflect the base rate charges for most recent twelve-month period will also adjust the \$12.1 million tax benefit to reflect any over or under refund that occurred in the preceding twelve-month period.

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

APPLICATION OF MIKE HUNTER, THE)
ATTORNEY GENERAL OF OKLAHOMA,)
TO LOWER THE RATES AND CHARGES)
FOR ELECTRIC SERVICE AND PROVIDE)
FOR ANY REFUND DUE TO THE)
CUSTOMERS OF PUBLIC SERVICE)
COMPANY OF OKLAHOMA RESULTING)
FROM THE TAX CUTS AND JOBS)
ACT OF 2017)

CAUSE NO. PUD 201700572

FILED
MAY 10 2018

COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA



SUMMARY TESTIMONY

OF

ZACHARY QUINTERO

MAY 10, 2018

1 Zachary Quintero is employed by the Public Utility Division (“PUD”) of the Oklahoma
2 Corporation Commission (“Commission”) as a Public Utility Regulatory Analyst. On
3 December 22, 2017, the President of the United States signed the Tax Cuts and Jobs Act of
4 2017 lowering corporate income tax rates from 35% to 21%, effective January 1, 2018. On
5 the same day, the Oklahoma Attorney General (“AG”) filed Cause No. PUD 201700572
6 requesting an immediate reduction in Public Service Company of Oklahoma’s (“PSO” or
7 “Company”) rates and a refund to customers for any excess tax expense no longer due to the
8 federal government. On January 9, 2018, the Commission signed Order No. 671981
9 instructing PSO to create a deferred liability reflecting the reduced federal corporate tax rate
10 and the associated savings in excess Accumulated Deferred Income Taxes (“ADIT”). On
11 March 29, 2018, AG witness Edwin C. Farrar filed Direct Testimony with recommendations
12 to the Commission concerning the disposition of the Company’s deferred liability.

13 On April 18, 2018, Mr. Quintero filed his Responsive Testimony in this Cause. In his
14 Responsive Testimony, Mr. Quintero testified that PUD reviewed the Direct Testimony of
15 AG witness Farrar, all data requests issued and responses received among all parties in this
16 Cause (including associated workpapers), the Tax Cuts and Jobs Act of 2017, and
17 Commission Order No. 671981 and 672864. Based upon this review, Mr. Quintero testified
18 that PUD recommends the Commission instruct PSO to refund all of the excess tax deferred
19 liability created in Order No. 671981 through a rider. The unprotected portion of excess
20 ADIT should be amortized over the average remaining life of PSO’s assets, 27.75 years.¹
21 The protected portion should be amortized using the federally-mandated Average Rate

¹ Responsive Testimony of Zachary Quintero, Exhibit ZJQ-3.

1 Assumption Method (“ARAM”).² The entire amount of the excess income tax expense³
2 between January 9 and the implementation of new rates as a result of Cause No. PUD
3 201700151 should be returned in 2018.

4 Mr. Quintero testified that PUD recommends the proposed rider be submitted to PUD as a
5 tariff in the same format as PSO’s existing tariffs within 30 days of the Commission issuing
6 a final order in this Cause. All supporting documentation and workpapers should be
7 submitted with the initial tariff. In addition, Mr. Quintero testified that PUD recommends
8 this tariff include a supplemental page detailing the billing factors for each of PSO’s
9 customer classes, and that supplemental page must be stamped approved by PUD before any
10 new or revised billing factors can be implemented by PSO. PUD further recommends the
11 rider be submitted to PUD for review by December 10 of each year with any recalculation
12 and true-up for the following year’s amortization.

13 Mr. Quintero also testified that PUD does not recommend this rider be a visible line item on
14 a customer bill unless all other currently approved riders are also made visible. The excess
15 tax reserve represents a reduction in PSO’s cost to serve its customers, and PUD believes
16 there should be no difference in transparency for riders that increase or decrease a customer
17 bill. Additionally, Mr. Quintero testified that PUD does not recommend the initial or
18 revised tariff be submitted simultaneously to PUD and the AG for review. PUD reviews
19 numerous tariff revisions each year, and it is not standard practice for other PSO tariffs to be

² 26 U.S. § 1561(d)(1).

³ Responsive Testimony of Zachary Quintero, Exhibit ZJQ-2.

1 submitted to both the AG and PUD for review. Mr. Quintero testified that PUD believes
2 these recommendations are fair, just, reasonable, and in the public interest.

Cause No. PUD 201700572

CERTIFICATE OF MAILING

I the undersigned, do hereby certify that on the 10th, day of May, 2018, a true and correct copy of the above and forgoing was sent electronically, addressed to the following:

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OKLAHOMA CORPORATION COMMISSION

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

APPLICATION OF MIKE HUNTER, THE)
ATTORNEY GENERAL OF OKLAHOMA,)
TO LOWER THE RATES AND CHARGES)
FOR ELECTRIC SERVICE AND PROVIDE)
FOR ANY REFUND DUE TO THE)
CUSTOMERS OF PUBLIC SERVICE)
COMPANY OF OKLAHOMA RESULTING)
FROM THE TAX CUTS AND JOBS)
ACT OF 2017)

CAUSE NO. PUD 201700572

FILED
MAY 16 2018

COURT CLERK'S OFFICE - OKG
CORPORATION COMMISSION
OF OKLAHOMA

RESPONSIVE TESTIMONY SUMMARY
OF
MARK E. GARRETT

ON BEHALF
OF
OKLAHOMA INDUSTRIAL ENERGY CONSUMERS
("OIEC")

May 16, 2018

Responsive Testimony Summary of Mark E. Garrett
May 16, 2018
Tax Cuts and Jobs Act Issues

The Attorney General is recommending a rider to flow back the savings from the excess accumulated deferred income tax ("ADIT") generated by the TCJA. This tax reduction generated two sources of savings for ratepayers: (1) the tax rate reduction from 35% to 21% produced a lower annual tax expense to be included in rates, and (2) the tax rate reduction produced excess ADIT that was collected from ratepayers at the 35% rate but will be remitted to the IRS at the lower 21% rate; this excess ADIT must be returned to ratepayers. In PUD 201700151, the lower annual tax expense was included in the revenue requirement, but the excess ADIT amortization was not included. The Attorney General is recommending a rider to establish an immediate refund of the excess ADIT. The rider will have an annual true-up mechanism that will reconcile the amounts returned to ratepayers through the rider with the actual amounts of excess ADIT amortized each year. The Attorney General is also proposing to include the accumulated balance of the TCJA rate change savings from January 9, 2018, through March 1, 2018.

The OIEC agrees with the recommendation of the Attorney General. The amortization of the excess ADIT is an important component of the overall TCJA savings that must be returned to ratepayers. The excess ADIT represents actual tax payments from ratepayers that will never be remitted to the IRS. As such, these over-payments from ratepayers must be returned as soon as possible. In my opinion, the best mechanism for refunding this money to ratepayers is through a rider mechanism. A rider mechanism is the most expedient and accurate method for getting this money back to ratepayers.

Under the Average Rate Assumption Method prescribed under the TCJA when the deferred taxes would have been sent to the IRS they will be returned to ratepayers instead. The annual amortization will increase substantially over the next several years. A rider mechanism is by far the best mechanism for returning the precise amount of the amortization to ratepayers each year as it changes from year to year. By contrast, embedding an amount of ADIT amortization in base rates would be a very imprecise method for returning this money to ratepayers.

In my opinion, there will be substantially lower costs charged to PSO from its transmission company affiliate as a result of the TCJA. These savings must also be quantified and returned to ratepayers.

This issue is being treated in a manner consistent with the Attorney General's recommendation in 12 other states of which that I am personally aware. I conclude that the treatment ordered by the Oklahoma Commission in its January 9, 2018 order is consistent with the treatment in other states. I further conclude that to effectuate the requirements of that order, the savings from the excess ADIT amortization should be returned to ratepayers through the rider mechanism proposed by the Attorney General.

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MAY 09 2018

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

APPLICATION OF MIKE HUNTER, THE)
ATTORNEY GENERAL OF OKLAHOMA,)
TO LOWER THE RATES AND CHARGES)
FOR ELECTRIC SERVICE AND PROVIDE)
FOR ANY REFUND DUE TO THE)
CUSTOMERS OF PUBLIC SERVICE)
COMPANY OF OKLAHOMA RESULTING)
FROM THE TAX CUTS AND JOBS)
ACT OF 2017)

CAUSE NO. PUD 201700572

**Summary of the Rebuttal Testimony of Edwin C. Farrar
on Behalf of Mike Hunter, Oklahoma Attorney General**

Mr. Edwin C. Farrar submitted pre-filed rebuttal testimony on behalf of Mike Hunter, Attorney General of Oklahoma, on May 7, 2018. Mr. Farrar discussed certain issues raised by Public Service Company of Oklahoma ("PSO") in its responsive testimony. Mr. Farrar discussed normalization requirements included in the Tax Cuts and Jobs Act, PSO's proposal to reduce the unrecovered balance of Northeastern Unit 4 ("NE4") with deferred tax liabilities, and specific issues related to the tax refund rider.

Regarding the income tax normalization issue, Mr. Farrar agreed with PSO witness Mr. James I. Warren that the Tax Cuts and Jobs Act does require compliance with Internal Revenue Service normalization requirements, and that those requirements include utilizing the same date for plant in service, accumulated depreciation, and Accumulated Deferred Income Tax ("ADIT"). Mr. Farrar testified that his proposal to include interest on the portion of the excess ADIT that was accrued after PSO's last rate case did not violate those normalization provisions because PSO was permitted to update the other normalization-related rate base components but has chosen not to do so. PSO's decision not to present the changes in its net plant balances does not represent a violation of normalization. Mr. Farrar stated that the Commission had already imposed the requirement of an interest accrual in Order No. 671,981 in this Cause, and he has chosen to exclude the portion of

Cause No. PUD 201700572
Public Service Co. of Oklahoma
Summary of Rebuttal Testimony of Edwin C. Farrar

the excess ADIT that was included in rate base in Cause No. PUD 201700151, which is already providing a benefit to ratepayers comparable to the accrual of interest.

Mr. Farrar discussed PSO's responsive testimony proposal to offset a portion of the unprotected excess ADIT with the unrecovered balance of NE4. Mr. Farrar noted that NE4 has a different rate of return than the unprotected excess ADIT balance. The Commission order in PSO's last rate case specified that PSO be allowed to recover carrying costs for NE4 at PSO's cost of debt. In contrast, the excess ADIT has a return equal to PSO's cost of capital. The cost of debt return for NE4 is expected to be lower throughout NE4's remaining amortization period than the cost of capital return earned by excess ADIT, meaning customers would be worse off with PSO's proposal. Mr. Farrar recommended that the unprotected excess ADIT not be reduced by the unrecovered investment for NE4.

Mr. Farrar recommended minor changes to PSO's rider proposal. In addition to excluding the offset of NE4 from the unprotected excess ADIT balance, Mr. Farrar recommended that the initial rider be recalculated to refund all of the qualified excess tax reserve amortization for 2018, in 2018. He also recommended that the balance for 2019, and each subsequent year, be reset annually in December for the coming year's amortization. He recommended that the annual adjustment include a true-up for excess or deficient refunds for the preceding year, through November. Lastly, he also recommended that the annual adjustment be based on PSO's normalized sales for the coming year, to avoid an over-refund that would likely occur if the refund is based on sales from PSO's last rate case. Mr. Farrar noted that PSO communicated through discovery responses that it did not object to refunding the 2018 amortization balance in 2018 and that PSO would support the annual update of the rider for the coming year's amortization.

Cause No. PUD 201700572
Public Service Co. of Oklahoma
Summary of Rebuttal Testimony of Edwin C. Farrar

CERTIFICATE OF SERVICE

On this 9th day of May, 2018, a true and correct copy of the above and foregoing *Summary of Rebuttal Testimony of Edwin C. Farrar on Behalf of Mike Hunter, Oklahoma Attorney General* was sent via electronic mail to the following interested parties:

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BEFORE THE CORPORATION COMMISSION OF OKLAHOMA

APPLICATION OF MIKE HUNTER, THE)
ATTORNEY GENERAL OF OKLAHOMA,)
TO LOWER THE RATES AND CHARGES)
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COMPANY OF OKLAHOMA RESULTING)
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ACT OF 2017)

CAUSE NO. PUD 201700572

SUMMARY OF REBUTTAL TESTIMONY

OF

MARK E. GARRETT

ON BEHALF

OF

OKLAHOMA INDUSTRIAL ENERGY CONSUMERS

("OIEC")

May 11, 2018

FILED

MAY 11 2018

COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

**Summary of Rebuttal Testimony of Mark E. Garrett
May 10, 2018
Tax Cuts and Jobs Act Issues**

1 Mark E. Garrett submitted Rebuttal Testimony on behalf of Oklahoma Industrial Energy
2 Consumers (“OIEC”) on May 7, 2018. Mr. Garrett’s Rebuttal Testimony addresses several of
3 the recommendations made in PSO’s Responsive Testimony including: (1) PSO’s
4 recommendation to implement an excess tax reserve rider, with a true-up mechanism, to flow
5 back to ratepayers the excess accumulated deferred income tax (“Excess ADIT”) created by the
6 Tax Cuts and Jobs Act (“TCJA”); (2) PSO’s recommendation to utilize \$81 million of the
7 excess ADIT to recover the regulatory asset containing the stranded costs of the retired
8 Northeastern 4 Unit; and (3) PSO’s recommendation to keep the TCJA savings for the months
9 of January and February, the 2018 interim period when the TCJA was enacted and prior to when
10 the new rates from the Company’s Rate Case were implemented.

11 In his application, the Attorney General recommended a rider to flow back the savings
12 from the excess ADIT generated by the TCJA. Mr. Garrett testifies that this excess ADIT must
13 be returned to ratepayers and that in PSO’s responsive testimony, PSO witness John Aaron
14 agrees with the Attorney General’s recommendation and agrees to implement a rider to return
15 the excess ADIT. Mr. Garrett notes that Mr. Aaron recommends that the rider be implemented
16 with a true-up mechanism that would reconcile the amounts returned to ratepayers through the
17 rider each year with the actual amounts amortized in each year using the Average Rate
18 Assumption Method (“ARAM”) prescribed under the TCJA for the amortization of protected
19 excess ADIT. This true-up mechanism would allow the Company to avoid any tax
20 normalization violations under the tax laws. Mr. Garrett further testifies that a rider mechanism

1 is the best mechanism for returning the precise amount of amortization to ratepayers each year
2 as it changes from year to year. He also testifies that the amount returned to ratepayers each
3 year should be reconciled to the amount that was actually amortized using the ARAM approach.

4 Regarding PSO's recommendation to redirect \$81 million of the excess ADIT, Mr.
5 Garrett notes that the unprotected excess ADIT, with a balance of \$72.4 million (or \$97 million
6 grossed up for tax), could be returned to ratepayers over any period of time the Commission
7 orders since the amortization of unprotected excess ADIT is not restricted by the tax code. Mr.
8 Garrett notes that this unprotected balance could be returned to ratepayers over a much shorter
9 period of time than the 27.75 years selected by the Company. Mr. Garrett recommends that the
10 amortization period be shortened to ten (10) years as the excess ADIT should be returned as
11 much as possible to the ratepayers who made the over payments.

12 Regarding PSO's proposal to use the unprotected excess ADIT to pay off the
13 Northeastern 4 Unit balance, Mr. Garrett recommends that the Commission reject the
14 Company's proposal as the issue of the Northeastern recovery period has been extensively
15 litigated, with the Commission previously determining that the Northeastern 4 balance should be
16 recovered over the useful life of the plant before it was retired.

17 Regarding the Company's recommendation to keep the January and February 2018
18 TCJA savings for its shareholders, Mr. Garrett testifies that PSO proposes to keep the
19 accumulated January and February tax rate change savings for its shareholders because the
20 company testifies that it has had insufficient earnings in those two months before new rates went
21 into effect in March of 2018. Mr. Garrett recommends that the Commission reject this
22 recommendation as the Commission has previously ordered the Company to accumulate all of

1 the tax savings from the date of the Commission's January 9, 2018 Order issued in this Cause
2 and return such savings to ratepayers. Mr. Garrett maintains that PSO should not be allowed to
3 convert income tax collections to a profit center for its shareholders.

CERTIFICATE OF MAILING

On this 11th day of May 2018, a true and correct copy of the above and foregoing was sent via electronic mail to the following interested parties:

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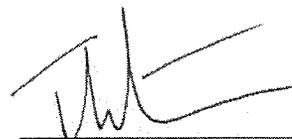
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FILED
APR 24 2018

BEFORE THE CORPORATION COMMISSION OF OKLAHOMA

COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

APPLICATION OF MIKE HUNTER, THE)
ATTORNEY GENERAL OF OKLAHOMA,)
TO LOWER THE RATES AND CHARGES)
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COMPANY OF OKLAHOMA RESULTING)
FROM THE TAX CUTS AND JOBS ACT)
OF 2017)

CAUSE NO. PUD 201700572

AARP STATEMENT OF POSITION

COMES NOW AARP, by and through its undersigned counsel, and hereby submits to this Commission AARP's Statement of Position in this matter. The Attorney General (AG) filed this cause on December 22, 2017, in light of the execution of the Tax Cuts and Jobs Act of 2017 (the Act), in order to preserve the tax reductions of both the corporate income tax and excess accumulated deferred income taxes (ADIT) on PSO's books for the benefit of its ratepayers. Subsequently, on January 9, 2018, the Commission issued Order No. 671981 ordering that "PSO shall record a deferred liability beginning on the effective date of this Order, to reflect the reduced federal corporate tax rate to 21 percent and the associated savings in excess ADIT and any other tax implications of the Act on an interim basis subject to refund." Order p. 4.

AARP supports the Attorney General and the Commission's Public Utility Division (PUD) recommendation that Public Service Company of Oklahoma (PSO) be required to (1) return excess ADIT as described by both AG witness Farrar and PUD witness Quintero. (2) and refund the excess income tax expense PSO collected from customers between January 2018 through the establishment of its new rates in March 2018.

While the AG recommends the return of \$3.1M in excess corporate taxes collected by PSO between the date of the Commission Order 671981 (January 9, 2018) and the implementation of

PSO's new rates in March 2018, PSO objects and says that PSO would propose "an alternative use of the funds."¹ In fact, PSO wants to retain these funds not to pay taxes (because there aren't any), but rather to apply these to PSO's earnings. The Commission's Order made it very clear that PSO would not be allowed to retain this windfall, but rather the Commission specifically put PSO on notice that it was to account for this amount as a deferred liability and it would accrue at an interest at a rate equivalent to PSO's cost of capital and be subject to refund to customers.² These taxes were collected from customers, but the fact is PSO will not pay these taxes, and, therefore, the full amount calculated should be refunded directly to customers.

Instead of returning all of the requested excess ADIT, PSO requests the Commission allow it to keep \$81 million to cover "other PSO costs." PSO is requesting to retain \$81 million from tax savings to be applied to the balance of the retired NE4 unit, claiming it would reduce intergenerational inequities and the need for future customers to pay for the recovery of this retired unit when future customers don't get the benefit of NE4 operations.³ A mere few months ago PSO was making the exact opposite argument in support of recovery in base rates of the return of and on NE4's balances after its retirement. In that case, PSO argued that the retirement of NE4 was part and parcel of its total environmental compliance plan and so it was appropriate that future customers to be responsible for these costs because future customers get the benefits of the company's entire environmental compliance plan. The Commission should deny PSO's request to retain \$81 million of excess ADIT and such amount should be included in refunds to customers.

¹ PSO Fate Responsive Testimony, April 18, 2018, p.8.

² Order No.671981, p.3.

³ PSO Fate Responsive Testimony, April 18, 2018, p.5.

AARP respectfully requests the Commission direct PSO to refund to customers all rates collected from customers for tax payments that are no longer due from PSO due to the Tax Cuts and Jobs Act of 2017. PSO should not be allowed to retain taxes collected from customers that are no longer owed and such monies should not be used to add to PSO's earnings or be kept by PSO for "other" expenses.

Respectfully submitted,



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CERTIFICATE OF SERVICE

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