

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


**ATTORNEY GENERAL'S PROPOSED INTERIM ORDER GRANTING THE
ATTORNEY GENERAL'S MOTION FOR IMMEDIATE REDUCTION IN RATES AND
PROTECTION OF CUSTOMER INTERESTS**

Mike Hunter, the Attorney General of Oklahoma, hereby submits his Proposed Interim Order Granting the Attorney General's Motion for Immediate Reduction in Rates and Protection of Customer Interests. During the Commission's hearing on Thursday, January 4, 2018, the Administrative Law Judge heard oral arguments on the Attorney General's motion for immediate reduction in rates and protection of customer interests and other parties' responses. At the conclusion of the hearing the Administrative Law Judge directed the Public Utility Division to prepare a proposed order by Friday, January 5, 2018, granting the Attorney General's request to record a regulatory liability subject to customer refund for excess deferred income taxes and for excess corporate income taxes rate caused by the January 1, 2018 reduction in the corporate income tax rate paid by Public Service Company of Oklahoma.

Commissioner Anthony also requested that the Attorney General prepare a proposed order for consideration, granting the Attorney General's request for the immediate reduction in utility customers' rates caused by the drop in the utility's income tax rate. The Attorney General's proposed order is provided here as Attachment A.

Respectfully submitted,

MIKE HUNTER
Attorney General of Oklahoma


DARA M. DERRYBERRY, OBA #16641
Deputy Attorney General
KATY EVANS BOREN, OBA #16649
Assistant Attorney General
JARED B. HAINES, OBA #32002
Assistant Attorney General
OKLAHOMA ATTORNEY GENERAL
313 NE 21st Street
Oklahoma City, Oklahoma 73105
Telephone: (405) 521-3921
Facsimile: (405) 522-0608
Dara.Derryberry@oag.ok.gov
Katy.Boren@oag.ok.gov
Jared.Haines@oag.ok.gov

ATTACHMENT A

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FINAL ORDER

HEARING: January 4, 2018 in Courtroom 301
2101 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105
Before Mary Candler, Administrative Law Judge

APPEARANCES: Jack P. Fite and Joann Worthington, Attorneys *representing* Public Service
Company of Oklahoma.

Jared B. Haines, Assistant Attorney General *representing* Office of
Attorney General, State of Oklahoma

Thomas P. Schroedter, Attorney *representing* Oklahoma Industrial Energy
Consumers

Matthew Dunne, Attorney *representing* United States Department of
Defense and all other Federal Executive Agencies

Mr. Michael Velez, Natasha M. Scott, Assistant General Counsels
representing Public Utility Division, Oklahoma Corporation Commission

BY THE COMMISSION:

The Corporation Commission of the State of Oklahoma ("Commission") being regularly
in session and the undersigned Commissioners being present and participating, there comes on for
consideration and action the above-styled and numbered cause.

I. PROCEDURAL HISTORY

On December 22, 2017, the Attorney General filed the application initiating this cause and a motion styled Attorney General's Motion for Immediate Reduction in Rates and Protection of Customer Interests. On that same day, the Attorney General filed his Notice of Hearing with service provided to all parties.

On December 27, 2017, the Attorney General filed a Notice of Hearing correcting the January hearing date year from 2017 to 2018.

Public Service Company of Oklahoma ("PSO") filed a response to the Attorney General's motion on January 4, 2018.

On January 4, 2018, a hearing on the Attorney General's Motion was held before Administrative Law Judge Mary Candler. Oral arguments of all parties were heard.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Commission has jurisdiction over this matter pursuant to Article IX, Section 18 of the Oklahoma Constitution, 17 O.S. §§ 151 *et seq.*, and the rules of the Commission.

Notice of these proceedings was proper and delivered as required by law and the orders of the Commission.

In the exercise of its legislative, judicial, and executive powers, the Commission is required to reach its own conclusions based upon the evidence before it; it may adopt, reject, restrict, or expand any or all findings and recommendations of the Administrative Law Judge.¹

After review of the evidence presented, hearing the arguments of counsel, and review and evaluation of the pleadings, responses, and evidence contained in the record for this cause, and

¹ See *State ex rel. Cartwright v. Okla. Nat. Gas Co.*, 1982 OK 11, ¶ 8; *Smith Cogeneration Mgmt., Inc. v. Corp. Comm'n*, 1993 OK 147, ¶ 14; *Cameron v. Corp. Comm'n*, 1966 OK 75, ¶ 29.

upon full and final consideration thereof, the Commission hereby grants the Motion of Mike Hunter, Oklahoma Attorney General.

Immediate Reduction of Rates

This Commission has the authority to set just and reasonable rates.² For an electric utility such as PSO, these rates are set based on the costs incurred to provide service.³ In this instance, one of PSO's largest expenses, federal corporate income tax, will be reduced significantly from 35 percent to 21 percent. The Attorney General's certified public accountant Edwin C. Farrar has calculated the minimum tax savings from this reduction to be over \$24 million annually, excluding the impact of excess deferred income tax.⁴ That means PSO will have a sudden and significant reduction in its cost to serve customers. Oklahoma Industrial Energy Consumers ("OIEC") and the Department of Defense and all other federal executive agencies ("DOD-FEA") both supported the Attorney General's motion. DOD-FEA expressed concern that the national security mission of the armed forces was impacted by energy costs and expressed the need for energy costs to reflect the reduced tax burden. OIEC also stated that its members would benefit significantly from tax savings, which would otherwise be lost during the pendency of this litigation. Additionally, AARP expressed support for the Attorney General's motion.

The Commission adopts the Attorney General's recommendation that the large reduction, owed to legal changes outside of PSO's control, should be reflected in rates immediately, distributed in proportion to each customer class's share of the revenue requirement applicable after

² Okla. Const. art. IX, § 18; 17 O.S. §§ 151, 152(a); *State ex rel. Cartwright v. Okla. Nat. Gas Co.*, 1982 OK 11, ¶ 5, 640 P.2d 1341, 1344–45.

³ See *Turpen v. Okla. Corp. Comm'n*, 1988 OK 126, ¶ 10 n.7, 769 P.2d 1309, 1315–16 n.7 (citing *Sw. Pub. Serv. Co. v. State*, 1981 OK 136, 637 P.2d 92).

⁴ Exhibit A; Exhibit B.

the order issued in the 2015 Rate Case Order. The Commission recognizes that the evidence presented by the Attorney General reflects a *conservative* estimate of the *minimum* tax savings due to customers, and further orders that any tax savings not captured within the estimate and therefore not returned immediately to customers be recorded as a regulatory liability, subject to refund. The ultimate treatment of this regulatory liability can be addressed with a final order in this cause.

Excess Accumulated Deferred Income Tax

PSO's accumulated deferred income tax account recognized at the end of its last rate case stood at over \$900 million.⁵ A portion of this amount would likely be drawn down over the coming months to reflect PSO's higher tax expenses for assets for which tax depreciation lives have ended—and for assets for which tax depreciation expense is less than its regulatory depreciation expense. The Public Utility Division supported the entry of an order creating a regulatory liability for excess deferred income tax, as well as for any additional tax savings due customers as a result of the Act.

The Commission adopts the Attorney General's recommendation that any excess deferred income tax should be preserved during the pendency of this proceeding and any amount drawn down shall be recorded as a regulatory liability subject to refund. The ultimate treatment of this regulatory liability can be addressed with a final order in this cause.

ORDER

THE COMMISSION THEREFORE ORDERS that the findings of fact and conclusions of law stated above are hereby adopted;

⁵ 2015 Rate Case Order, Attachment 2, p. 39.

IT IS FURTHER ORDERED that PSO shall immediately reduce its rates in the amount necessary to reflect lower tax rates, \$24 million annually, distributed across rate classes in proportion to their share of the revenue requirement as recognized in PSO's most recently completed cost-based rate setting order issued in the 2015 Rate Case Order;

IT IS FURTHER ORDERED that PSO shall record any tax savings exceeding \$24 million annually as a regulatory liability subject to refund during the pendency of this cause;

IT IS FURTHER ORDERED that PSO shall record excess Accumulated Deferred Income Tax as a regulatory liability subject to refund during the pendency of this cause; and

IT IS FURTHER ORDERED that all balances recorded as regulatory liabilities subject to refund pursuant to the requirements above shall accrue interest at a rate equivalent to PSO's cost of capital as recognized in the final order issued in 2015 Rate Case Order.

OKLAHOMA CORPORATION COMMISSION

DANA L. MURPHY, Chairman

J. TODD HIETT, Vice Chairman

BOB ANTHONY, Commissioner

DONE AND PERFORMED this _____ day of _____, 2017.

BY ORDER OF THE COMMISSION:

PEGGY MITCHELL, Secretary

CERTIFICATE OF SERVICE

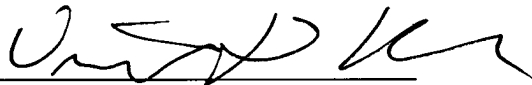
On this 5th day of January, 2018, a true and correct copy of the foregoing *Attorney General's Proposed Order* was sent via electronic mail to the following interested parties:

Mr. Brandy L. Wreath
Director of the Public Utility Division
OKLAHOMA CORPORATION COMMISSION
Jim Thorpe Building
2101 North Lincoln Boulevard
Oklahoma City, Oklahoma 73105
b.wreath@occemail.com

Mr. Michael Velez, Natasha M. Scott
Managing Deputy General Counsel
OKLAHOMA CORPORATION COMMISSION
Jim Thorpe Building
2101 North Lincoln Boulevard
Oklahoma City, Oklahoma 73105
m.velez@occemail.com

Mr. Jack P. Fite
WHITE, COFFEY & FITE, P.C.
2200 Northwest 50th Street, Suite 210
Oklahoma City, Oklahoma 73112
jfite@wcgflaw.com

Ms. Joann Stevenson Worthington
AMERICAN ELECTRIC POWER
1601 Northwest Expressway, Suite 1400
Oklahoma City, Oklahoma 73118-1116
jstevenson@aep.com


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