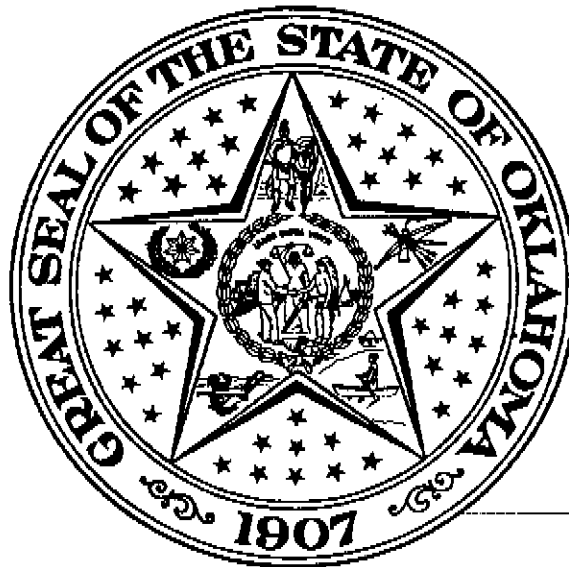


IN THE MATTER OF AN APPLICATION FOR A  
GENERAL CHANGE OR MODIFICATION IN THE  
RATES, CHARGES AND TARIFFS OF ARKLA, A  
DIVISION OF NORAM ENERGY CORP.

CAUSE NO. PUD 940000354

**FILED**  
JUN 23 1997

COURT CLERK'S OFFICE - OKC  
CORPORATION COMMISSION  
OF OKLAHOMA



PREFILED RESPONSIVE TESTIMONY

OF

KENNETH R. ZIMMERMAN, PHD

**Cause No. PUD 940000354**  
**Prefiled Responsive Testimony**  
**Kenneth R. Zimmerman, PhD**  
**Public Utility Division Staff**

**Introduction**

1  
2  
3  
4  
5  
6  
7  
  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17

Q: Please state your name, by whom you are employed, and your position.

A: I am Kenneth R. Zimmerman. I am a Staff member of the Public Utility Division ("PUD") of the Oklahoma Corporation Commission ("Commission" or "OCC"). I hold the position of Tariff and Cost of Service Coordinator in the Engineering, Planning, and Fuels Department. My section of the department is concerned primarily with planning topics and issues.

Q: Please describe your primary areas of responsibility as a Coordinator in the PUD.

A: Currently, my primary duties and responsibilities are concerned with the potential restructuring of Oklahoma's electric and gas utility industries. That effort consists mostly of movement toward a model that not only places a greater emphasis on competition and markets, but that also attempts to move the focus of regulation from the standard cost-of-service/rate of return ("COS/ROR") approach toward several types of alternative regulation (e.g., performance-based regulation ("PBR"), alternative dispute resolution, facilitated consensus building).

1 In addition, my duties and responsibilities extend into the following three  
2 areas:

- 3 1. General research and analysis of issues related to energy efficiency of  
4 utilities and end-users, the acquisition and utilization of fuel and gas  
5 by utilities, and the operational/organizational standards for energy  
6 utilities;
- 7 2. Coordination of monitoring and review of long-range energy planning  
8 issues; which includes review of all aspects of energy utilities'  
9 strategic and resource planning, preparation of the biennial Electric  
10 System Planning Report, and PUD computer modeling; and
- 11 3. Analysis for Commission cases involving utilities' purchased power,  
12 including contracts with cogenerators<sup>1</sup> and small power producers<sup>2</sup>,  
13 and for cases dealing with utility operated demand-side management  
14 programs.

15 Q: Please describe your educational and work experience background.

16 A: I hold a PhD in Sociology, with emphasis in systems theory, applied social  
17 science, and social science research methodologies. I also hold a Master of

---

<sup>1</sup> Cogenerators are defined under PURPA as "Qualifying Facilities" which use the steam produced from the burning of a fossil fuel both to generate electricity and for other purposes beneficial to society (e.g., industrial processes, heating of buildings).

<sup>2</sup> Small Power Producers are defined under PURPA as "Qualifying Facilities" which generate electricity primarily through the use of renewable fuels.

1 Arts degree in Sociology and Psychology and a Bachelor of Arts degree in  
2 Mathematics, History, and English. I began work with the Commission in  
3 February, 1985, as a Statistical Analyst. In April, 1988, I was made special  
4 research assistant to the PUD Director. I remained in that position until  
5 January, 1992, when I was made a Tariff and Cost of Service Analyst. In  
6 March, 1994, I moved into my current position.

7 Q: Have you previously testified before the Commission.

8 A: Yes.

9 Q: Did the Commission accept your credentials as an expert witness?

10 A: Yes.

11 **Purpose of Testimony**

12 Q: What is the purpose of this testimony?

13 A: My testimony addresses the conclusion of the competitive bidding process  
14 for gas transportation initiated in Order No. 388659 for this Cause. After  
15 several settlement meetings, the parties to this Cause reached a general  
16 settlement. This settlement was approved by the Commission in Order No.  
17 388659. One aspect of this settlement was an agreement that Arkla would  
18 utilize a public competitive bidding process to obtain needed gas  
19 transportation services.

1 Q: Please explain how the purposes of your testimony are relevant to the issues  
2 of this rate case.

3 A: As a regulated public utility, Arkla has an obligation to plan, design, organize,  
4 and operate its Company in such a manner as to achieve the following:

5 1. provide gas utility services to all parties who request such services  
6 within Arkla's service territory;

7 2. make all reasonable efforts to ensure that the services provided meet  
8 all the reliability, safety, customer satisfaction, and other quality  
9 standards established by the OCC and other oversight agencies and  
10 organizations; and

11 3. make all reasonable efforts to minimize the cost and maximize the  
12 efficiency of utility services provided to its customers.

13 Traditionally, state utility regulators, such as the OCC, have utilized cost of  
14 service/rate of return ("COS/ROR") regulatory principles, general rate cases,  
15 and an extended and detailed hearing process to "enforce" the above  
16 requirements for utilities. Today, however, significant efforts are underway  
17 to shift the focus for ensuring appropriate behavior by gas utilities from  
18 COS/ROR regulation to markets, competition, economic incentives coupled  
19 with performance standards, alternative and streamlined regulation,  
20 customer choice, and open and nondiscriminatory access to transmission  
21 and distribution pipelines. Although in 1994 the gas utility industry had only  
22 taken the initial steps from COS/ROR regulation toward competition and

1 alternative regulation, the gas transportation competitive bidding process  
2 established by the parties as a part of the joint stipulation in Cause No. PUD  
3 94-354 represents an early attempt to reasonably and deliberately consider  
4 and put in place an alternative structure for Arkla as a means to lower  
5 Arkla's cost for gas transportation service. The competitive bidding process  
6 Arkla implemented with Staff's assistance produced an actual lowering of  
7 Arkla's gas transportation cost and provides a tangible demonstration of the  
8 advantages of such an approach over COS/ROR regulation.

#### 9 **Arkla's Gas Transportation Competitive Bidding Process**

10 Q: Please explain the terms of the joint stipulation approved by Order No.  
11 388659, as they relate to gas transportation competitive bidding by Arkla.

12 A: In the stipulation, Arkla agreed to initiate competitive bidding for gas  
13 transportation to the Company's city gates. Arkla agreed to design a  
14 competitive bidding process, in consultation with Staff, and to complete the  
15 first round of that competitive bidding by March, 1996. The entire bidding  
16 process consisted of four stages, each covering an annual period between  
17 1996 and 1999. During each stage at least 25% of the gas transportation  
18 requirements of Arkla was to be bid. The entire gas transportation  
19 requirement of Arkla was to be met through competitive bidding by March  
20 1, 2000, the date the existing gas transportation contract between Arkla  
21 and its affiliate, NORAM Gas Transmission Company ("NGT"), was to end.

1 Q: From Staff's perspective, what is the primary objective of the gas  
2 transportation competitive bidding process?

3 A: Although the Arkla/NGT gas transportation contract was approved by the  
4 Commission in Cause No. PUD 92-1317, the transportation cost paid by  
5 Arkla to its affiliate, NGT, did not, in Staff's view, reflect the true market  
6 price for this service. Specifically, it was Staff's belief that in December,  
7 1994, the price paid for gas transportation by Arkla to NGT was, at least for  
8 a large portion of Arkla's city gates, above the market price. Staff sought  
9 to bring market pricing to Arkla's gas transportation contracting, by  
10 recommending that a competitive bidding process be utilized to achieve this  
11 objective. This process would have yielded either a renegotiation of Arkla's  
12 contract with NGT, if NGT chose to implement the "right of first refusal" and  
13 "right to match" provisions in that contract, or would have resulted in the  
14 replacement of NGT, in whole or in part, as Arkla's gas transporter.

15 Q: What is Staff's assessment of the competitive process designed by Arkla?

16 A: Arkla designed a comprehensive, fair, and workable bidding process. All  
17 elements of the process are clearly defined and apply appropriate design and  
18 management criteria.

19 Q: Was there proper coordination between Arkla and Staff in designing,  
20 implementing, and assessing the results of the bidding process?

1 A: Yes.

2 Q: Did the bidding process designed by Arkla and Staff function properly?

3 A: Yes.

4 Q: Was the first round of the bidding process completed on time?

5 A: Yes.

6 Q: Please describe the results of the first round of the bidding process.

7 A: Over a half dozen bids were received by Arkla. After several evaluations,  
8 Transok's bid was accepted. This bid covered a portion of the Lawton city  
9 gate (as already indicated, only 25% of the transportation requirements of  
10 Arkla was bid during the first round of bidding). Implementation of gas  
11 transportation services from Transok would have achieved an approximate  
12 \$2.3 million annual savings for such services for Arkla. The existing gas  
13 transportation contract between Arkla and NGT contained a provision  
14 allowing NGT the "right to match" all alternative bids. In September, 1996,  
15 NGT chose to match the Transok bid to retain the provision of gas  
16 transportation service to the Lawton city gate.

17 **Concluding the Competitive Process Via Negotiated Agreement**

18 Q: Is Arkla proposing to end the gas transportation competitive bidding process



1 as of September 1, 1996?

2 A: Yes.

3 Q: Please explain Arkla's proposal to end the competitive bidding process.

4 A: After NGT exercised its right to match the low bid, Arkla chose to  
5 renegotiate the terms and pricing of the existing gas transportation contract  
6 with NGT as of September 1, 1996.

7 Q: Have you reviewed the renegotiated provisions of the contract proposed by  
8 Arkla, and the prefiled direct testimony of Mr. Ray Ellerman in support of  
9 these renegotiated provisions of the contract?

10 A: Yes.

11 Q: Does Staff support the proposed renegotiated provisions of the existing  
12 contract between Arkla and NGT for gas transportation services?

13 A: Yes.

14 Q: Please explain why Staff supports these proposed renegotiated provisions  
15 of the contract between Arkla and NGT.

16 A: Staff supports the renegotiated provisions contract for five reasons:

17 1. the reduction in Arkla's cost for gas transportation service included in  
18 the renegotiated contract provisions are reflective of market prices for

- 1           such services, thus fulfilling the primary objective for the competitive  
2           bidding process;
- 3           2.    the reduction in Arkla's gas transportation cost is achieved  
4           immediately, retroactively to September 1, 1996, rather than in the  
5           year 2000, in accordance with the time table for the competitive  
6           bidding process;
- 7           3.    due to the renegotiation of the contract, NGT and Arkla agree to  
8           modify the terms of the contract to be consistent with any gas utility  
9           industry unbundling and competition rules or orders issued by the  
10          Commission, beginning in the year 2000;
- 11          4.    NGT agrees that if it gains new gas transportation customers in  
12          Oklahoma as part of an unbundling and competition process  
13          established by the Commission, it will give up an amount of its firm  
14          transportation for Arkla equivalent to any new firm transportation  
15          gained in the competitive market established by the Commission; and,
- 16          5.    because the probability is high that many of the citygates on Arkla's  
17          system would never attract competitive bids, the renegotiated  
18          provisions of the contract provide cost reductions for customers  
19          served through these citygates that would not otherwise be achieved.

1 **Conclusions and Recommendations**

2 Conclusions

3 Q: What are Staff's conclusions regarding the renegotiated gas transportation  
4 contract proposed by Arkla and NGT?

5 A: Staff's conclusions are as follows:

- 6 1. **THE GOALS OF THE COMPETITIVE BIDDING PROCESS WERE**  
7 **ACHIEVED** -- the renegotiated contract achieves the market pricing  
8 objective of the competitive bidding process, and achieves this  
9 objective more than three years in advance of the schedule for the  
10 competitive bidding process designed and implemented by Arkla and  
11 Staff;
- 12 2. the renegotiated terms of the contract are consistent with and will  
13 not, in any way, interfere with an unbundled and competitive gas  
14 utility industry, if the Commission and other stakeholders choose to  
15 establish such an industry in Oklahoma;
- 16 3. savings from the renegotiated contract for Arkla's ratepayers are  
17 \$4,112,250, annually, including a retroactive refund beginning with  
18 September 1, 1996; and,
- 19 4. the actual implementation of the renegotiated contract provisions and  
20 the savings in Arkla's gas transportation cost resulting from the  
21 renegotiation will be monitored annually as part of the annual review  
22 of the cost of gas for gas utilities by the PUD's fuel section.

1 Recommendations

2 Q: What are Staff's recommendations to the Commission regarding the  
3 renegotiated gas transportation contract with NGT proposed by Arkla and  
4 the competitive bidding process established by Order No. 388659?

5 A: Staff's recommendations are:

- 6 1. allow the proposed renegotiated contract provisions to go into effect,  
7 retroactive to September 1, 1996;
- 8 2. instruct Arkla to create, in consultation with Staff, an appropriate  
9 means to distribute to its ratepayers the refund resulting from the  
10 contract's retroactive application; and,
- 11 3. instruct Arkla and Staff, together, to prepare an annual report to the  
12 Commission assessing the actual implementation of the contract's  
13 terms and associated cost savings to be submitted to the Commission  
14 on November 30 of 1997, 1998, and 1999.

15 Q: Does this conclude your testimony?

16 A: Yes.