

BEFORE THE CORPORATION COMMISSION OF OKLAHOMA

APPLICATION OF PUBLIC SERVICE)
COMPANY OF OKLAHOMA ("PSO") FOR)
APPROVAL OF THE COST RECOVERY OF THE)
WIND CATCHER ENERGY CONNECTION)
PROJECT; A DETERMINATION THERE IS A)
NEED FOR THE PROJECT; APPROVAL FOR)
FUTURE INCLUSION IN BASE RATES COST)
RECOVERY OF PRUDENT COSTS INCURRED)
BY PSO FOR THE PROJECT; APPROVAL OF A)
TEMPORARY COST RECOVERY RIDER;)
APPROVAL OF CERTAIN ACCOUNTING)
PROCEDURES REGARDING FEDERAL)
PRODUCTION TAX CREDITS; WAIVER OF)
OAC 165:35-38-5(e); AND SUCH OTHER RELIEF)
THE COMMISSION DEEMS PSO IS ENTITLED.)

CAUSE NO. PUD 201700267

FILED
JAN 29 2018

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CORPORATION COMMISSION
OF OKLAHOMA

HEARING: January 8, 2018 – January 17, 2018
Administrative Law Judge Mary Candler

APPEARANCES: Jack Fite, Joann Worthington and Tom Q. Ferguson, Attorneys for
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Michael Valez, Natasha Scott and Lauren Hensley, Attorneys on behalf of the Public Utility Division of the Oklahoma Corporation Commission

**WINDFALL COALITION'S
PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Windfall Coalition ("Windfall") submits the following proposed findings of fact and conclusions of law in connection with the January 8-17, 2018 hearing on the merits in this matter. For purposes of brevity "Project" will be used to refer to the components of the Application filed by PSO on July 31, 2017. "PSO" will be used to refer to Public Service Company of Oklahoma. "AEP" will be used to refer to American Electric Power and its subsidiaries.

PROCEDURAL HISTORY

I. FINDINGS OF FACT

A. PSO admits there is no need for the Windcatcher Project.

1. PSO admitted the Application was made not because of a need for the project. (Transcript of Hearing January 8, 2018 a.m. session at 17:14-18).
2. Instead, PSO paternalistically believes the Commission should approve the Project because the Project will "help" its customers. (Transcript of Hearing January 8, 2018 a.m. session at 29:25-30:5).
3. PSO admits though that its customers do not want this help. (Transcript of Hearing January 8, 2018 p.m. session 35:3-9) and (Transcript of Hearing January 9, 2018 a.m. session 69:8-12).
4. PSO refuses to guarantee this expensive project will actually help. (Transcript of Hearing January 16, 2018 a.m. session 127:22-129:5).
5. Worse yet, PSO refuses to take this expensive Project out of rate base if it is later determined that it does not help customers. (Transcript of Hearing January 8, 2018 late p.m. session 4:23-5:22).

B. AEP and PSO Chose to Withhold Information about the Project from the Commission, the Attorney General and Interested Parties.

1. PSO and Invenenergy began discussing a wind energy project to be financed by ratepayers in the summer of 2016. They signed a Joint Development Agreement in November 2016 and began siting feasibility in December 2016. (Transcript of Hearing January 8, 2018 a.m. session at 25:1-4 and 25:5-7).
2. AEP's position is that construction began on the project in December of 2016. (Transcript of Hearing January 8, 2018 a.m. session at 61:13-16).
3. AEP engaged its consulting expert for this Cause in January 2017. (Transcript of Hearing January 8, 2018 a.m. session at 25:8-11).
4. Despite all the 2016 and early 2017 activity, AEP chose not to notify either the Commission Staff or the Attorney General of the planned Project until the filing of this Cause in July 2017. (Transcript of Hearing January 8, 2018 a.m. session at 27:11-16 and 28:12-16).
5. AEP's tactical decision to withhold information has left the other interested parties unable to audit its testimony and assumptions. (Transcript of Hearing January 17, 2018 at 22:20 - 24:6).

C. PSO cannot identify any macroeconomic benefit for Oklahoma despite the incredible cost.

1. AEP has not studied whether the Project will increase Oklahoma's Gross Domestic Product. (Transcript of Hearing January 8, 2018 a.m. session 42:15-19).
2. AEP believes the Project will create only 80, eight zero, permanent jobs. (Transcript of Hearing January 8, 2018 a.m. session 43:5-8).
3. Exploration and production of natural gas supports Oklahoma's economy and AEP concedes that activity provides more than 80 permanent jobs. (Transcript of Hearing January 8, 2018 a.m. session 43:9-19).
4. AEP believes the Project will create property tax revenue, perhaps royalties and some temporary jobs during construction, but all of those

costs will be paid for by ratepayers. (Transcript of Hearing January 8, 2018 late p.m. session 11:3-17 and 11:21-12:9).

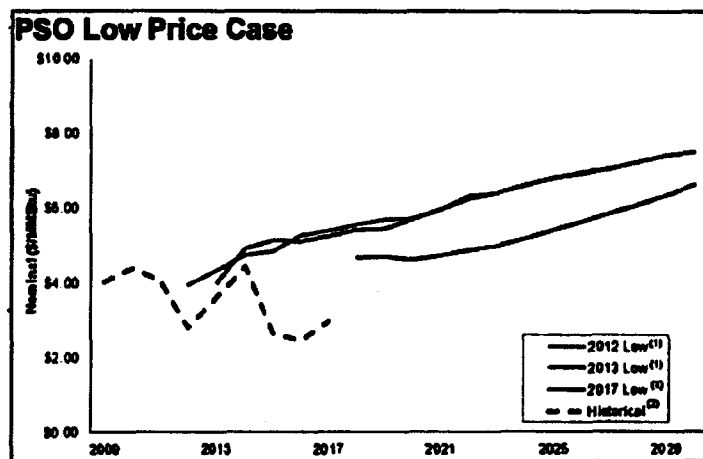
D. PSO Failed to Prove that the Project will outperform Natural Gas even with uncertain federal tax subsidies.

1. PSO claims the Project will benefit customers because it will produce electricity more cheaply than natural gas fired power plants. (Transcript of Hearing January 11, 2018 a.m. session 35:22-25). (Transcript of Hearing January 11, 2018 p.m. session 47:10-23). To determine the relative cost of electricity from natural gas fired power plants, AWP relied entirely on a fundamentals forecast prepared by Karl Bletzacker, Director of Fundamentals Analysis for AEP Service Company. (Transcript of Hearing January 11, p.m. session 7:17-21). *The Fundamentals Forecast sponsored by PSO is fundamentally flawed and is historically inaccurate.*

- (a) AEP's fundamentals forecast for natural gas is generated by a closed process that only allows the inputs and subjective judgments AEP makes. (Transcript of Hearing January 11, 2018 p.m. session 11:2-20 and 12:24-13:3).
- (b) AEP's model added a layer of cost to natural gas based on a future carbon tax. That cost layer began at \$2.92 per ton and escalated to \$26.31 per ton in 2032, even though no such tax currently exists. (Transcript of Hearing January 11, 2018 p.m. session 17:12-18:7).
- (c) AEP's model did not include any future tax on wind production. (Transcript of Hearing January 11, 2018 p.m. session 20:15-18).
- (d) Mr. Bletzacker agreed his model is like the models used by the Soviets to forecast wheat prices and the Venezuelan government to forecast oil prices. (Transcript of Hearing January 11, 2018 p.m. session 13:9-23).
- (e) AEP's model is not market-based in that it does not create any binding obligation to buy or sell gas at any price. (Transcript of Hearing January 11, 2018 p.m. session 13:4-8).
- (f) AEP's model is not market-based because it purposely ignores information provided by transactions on the natural gas futures market (Transcript of Hearing January 11, 2018 p.m. session 31:12-15) despite the fact that the futures market creates actual binding transactions to deliver or to purchase during the very

periods modeled by AEP. (Transcript of Hearing January 11, 2018 p.m. session 31:19-32:3).

- (g) Mr. Bletzacker is aware that other utilities like Southwestern Public Service and Entergy, which are much like AEP, use NYMEX futures pricing as an input in their natural gas price forecasts. (Transcript of Hearing January 11, 2018 p.m. session 51:6-52:15).
- (h) Previous AEP forecasts have consistently overestimated future natural gas prices in years 2012, 2013 and most recently in 2017. These forecasts did not adequately account for significant increases in United States production, which lowered natural gas prices.



(Petrie Responsive Testimony, 12:14-18).

- (i) Mr. Bletzacker has no opinion on whether AEP has been accurate in forecasting natural gas prices over the past five years or ten years. (Transcript of Hearing January 11, 2018 p.m. session 34:2-21).
- (j) Mr. Bletzacker and AEP do not review for accuracy the results of AEP's fundamentals forecast after it has been generated. (Transcript of Hearing January 11, 2018 p.m. session 38:2-10).
- (k) In the opinion of Mr. Bletzacker and AEP, it is enough to know that they included all the right inputs to determine they have done a good job. (Transcript of Hearing January 11, 2018 p.m. session 34:2-21).

- (l) Mr. Bletzacker agrees that the forecast used by PSO for evaluating benefits of the Wind Catcher project regarding natural gas pricing are significantly higher than the NYMEX monthly future prices for natural gas, but believes that is irrelevant. (Transcript of Hearing January 11, 2018 p.m. session 48:5-10).
- (m) Mr. Bletzacker makes no effort to learn how other utilities forecast natural gas prices. (Transcript of Hearing January 11, 2018 p.m. session 50:7-13).
- (n) PSO's independent natural gas pricing expert, Richard Smead, has not seen any evidence that PSO has a good record at forecasting natural gas prices. (Transcript of Hearing January 11, 2018 a.m. session 40:10-15).
- (o) Moreover, Mr. Smead has no opinion on whether AEP's Fundamentals Forecast is reasonable. (Transcript of Hearing January 11, 2018 a.m. session 77:13-22).
- (p) PSO's independent natural gas pricing expert, Richard Smead, testified that over the next four to five years, at least, prices can balance at \$3.00 MMBTU (Transcript of Hearing January 11, 2018 a.m. session 12:9-20). That opinion discloses that Mr. Bletzacker's Fundamentals Forecast price for natural gas is at least 50% too high for the first five years. (Transcript of Hearing January 11, 2018 a.m. session 13:3-14:5).
- (q) Windfall's natural gas pricing expert, Thomas Petrie, concluded that AEP's price forecasts appear too high. Its forecast assumptions do not adequately reflect the fundamentals that will likely drive the future supply/demand dynamic of the United States domestic gas market. (Petrie Responsive Testimony, 10:14-16).
- (r) Dr. Perryman, the Noble prize nominated economist testifying for Oneta, concluded that the prices presented by Mr. Bletzacker in his forecast are well above those that are being presented by everyone else who seems to take this seriously, and the available market signals. (Transcript of Hearing January 16, 2018 a.m. session 15:10-17).
- (s) Futures market prices do have predictive value. (Transcript of Hearing January 16, 2018 a.m. session 17:3-13).

- (t) **Dr. Perryman highlighted the most obvious flaw in AEP's outcome-oriented model – AEP's forecast predicts that natural gas prices will be higher than the actual price to purchase that gas today. AEP's forecast is directly at odds with reality. (Transcript of Hearing January 16, 2018 a.m. session 17:17-20).**
2. **Objective indicia, including information provided by actual market transactions, show natural gas is a fundamentally more economical fuel source.**
- (a) **Page 6 of Exhibit TAP-1 contains a chart. This natural gas price outlook shows that NYMEX futures, EIA estimates and broker research estimates from both Bloomberg and Factset expect prices to average approximately \$3.00 MMBtu for the next several years. (Petrie Responsive Testimony, 6:14-17).**
 - (b) **Richard Smead, PSO's independent natural gas pricing expert, validated the pricing information provided by the futures market by emphasizing that participants in the futures market all bring information they happen to know or believe and the settled price is the confluence of all of that information. (Transcript of Hearing January 11, 2018 a.m. session 27:2-13).**
 - (c) **Page 7 of Exhibit TAP-1 contains a strip price chart. The forecasts as of 2015, 2016 and 2017 for strip prices have consistently declined year over year, and the forward five-year strip is currently averaging approximately \$3.00 MMBtu. (Petrie Responsive Testimony, 7:5-7).**
 - (d) **United States gas production will continue to outpace domestic consumption because of abundant shale gas reserves and low breakeven well costs. (Petrie Responsive Testimony, 7:14-15).**
 - (e) **The United States has a prolific resource base of natural gas, and the ability of operators to detect and economically extract these resources keeps improving. Additionally, operators can respond to natural gas price increases within 30-60 days by producing more of this plentiful resource, putting downward pressure on prices. (Petrie Responsive Testimony, 8:2-5).**
 - (f) **Through Mr. Petries' work at Petrie Partners and frequent conversations with energy company executives, Mr. Petrie has**

come to be confident that technology advances will continue to be made over the next decade. (Petrie Responsive Testimony, 9:9-11).

- (g) Breakeven costs in gas-weighted fields will keep coming down. (Petrie Responsive Testimony, 9:11-12).
- (h) Additionally, oil wells nationwide are predicted to produce an additional 9 billion cubic feet a day of associated natural gas over the next few years, according to estimates from Tudor, Pickering, Holt & Co. and Macquarie Group. Most oil wells produce natural gas as a byproduct, and that gas output rises commensurate as oil drilling accelerates. Oil drilling activity is expected to grow in Oklahoma and West Texas, and these new wells will contribute to the natural gas supply glut in the United States. (Petrie Responsive Testimony, 9:12-10:3)
- (i) Rapid growth in United States reserves and production has resulted in an overproduced situation relative to domestic demand, leading to significant, sustained builds in natural gas storage for the last several years. United States supply capabilities are the key reason that natural gas prices will stay low for decades. (Petrie Responsive Testimony, 10:8-11).
- (j) Any material increase in natural gas prices will result in a rapid acceleration in development activity, bringing on additional ample supply, and this new supply would drive down prices. Additionally, if natural gas prices were to rise above \$4 MMBtu, substantial amounts of new resources would become viewed by operators as economic to drill. (Petrie Responsive Testimony, 12:5-9).
- (k) PSO's 2017 Low forecast assumes a \$4.69 MMBtu 2018 price average. This price is 57% higher than 2017's average price of approximately \$2.98 MMBtu and 62% higher than the current NYMEX futures 2018 average of approximately \$2.90 MMBtu. (Petrie Responsive Testimony, 12:11-13).
- (l) PSO's independent natural gas pricing expert, Richard Smead, believes that beyond the four to five-year short term, low prices could be sustainable if nothing changes from the current situation of steady but modest demand growth, rapid technological evolution, robust resource access and performance and continuous

cost containment and reduction. (Transcript of Hearing January 11, 2018 a.m. session 15:3-9).

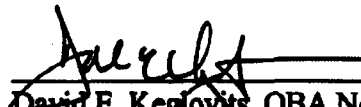
- (m) To the extent there is a risk that the current situation creating low natural gas prices could change, that risk is already known to the markets and reflected in the current market-based prices. (Transcript of Hearing January 11, 2018 a.m. session 16:14-17:19).
 - (n) PSO's independent natural gas pricing expert, Richard Smead, believes that the industry will continue to develop additional technological advances. (Transcript of Hearing January 11, 2018 a.m. session 18:8-25).
 - (o) PSO's independent natural gas pricing expert, Richard Smead, believes the Oklahoma Corporation Commission has adequately regulated hydraulic fracturing and waste water disposal and that any cost attendant to that regulation is now borne out in the \$3.00 natural gas price. (Transcript of Hearing January 11, 2018 a.m. session 20:9-19).
 - (p) In December 2017, PSO filed in PUD 201700258 a summary of fossil fuel consumed during 2016. The natural gas price in 2016 paid by the company was \$2.94 per MMBTU. (Transcript of Hearing January 9, 2018 a.m. session 65:15-21).
3. The Project is fundamentally flawed because PSO refuses to guarantee that ratepayers will benefit if natural gas prices continue to be lower than PSO's forecasts, which have been historically inaccurate and self-serving.
- (a) PSO's independent natural gas pricing expert, Richard Smead, believes the Project will only produce about a \$60 million net benefit versus the \$163 million that PSO's employee witnesses claim is the low case. (Transcript of Hearing January 11, 2018 a.m. session 46:20-47:10).
 - (b) PSO will not guarantee that customers will realize benefits from Wind Catcher if gas prices are lower than PSO's forecasts. (Transcript of Hearing January 16, 2018 a.m. session 128:10-129:5).
 - (c) PSO will not guarantee customers are held harmless in the event current prices stay in effect. (Transcript of Hearing January 8, 2018 a.m. session 119:22-120:2).

- (d) PSO's independent natural gas pricing expert, Richard Smead, testified that producers of natural gas and oil would be disappointed if natural gas was displaced as a fuel source based simply on a black box fundamentals forecast. (Transcript of Hearing January 11, 2018 a.m. session 35:9-16).

II. CONCLUSIONS OF LAW

- A. The ALJ finds that the Commission has jurisdiction over this Cause and the parties hereto pursuant to the Oklahoma Statutes, Title 17, Sections 151 *et seq.*, Article 9, section 18 of the Oklahoma Constitution, and Commission Rules.
- B. 17 O.S. §286(C) requires PSO to show a need exists for the Wind Catcher project. PSO has failed to make that showing.
- C. PSO's Application sought a waiver of the requirements of OAC 165:35-38-5(e). PSO has failed to show good cause exists to grant that waiver.

The Windfall Coalition hereby adopts Findings of Fact and Conclusions of Law advanced by other intervenors and the PUD Staff in opposition to the Application.



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CERTIFICATE OF SERVICE

This is to certify that on this 29th day of January, 2018, a true and correct copy of the above and foregoing Windfall Coalition's Proposed Findings of Fact and Conclusions of Law was sent via electronic mail to the following interested parties:

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