

**BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA**

JOINT APPLICATION OF CENTERPOINT )  
ENERGY RESOURCES CORP., SOUTHERN ) CAUSE NO. PUD 202100114  
COL MIDCO, LLC, AND SUMMIT UTILITIES )  
OKLAHOMA, INC. FOR TRANSFER OF )  
JURISDICTIONAL UTILITY ASSETS AND ) ORDER NO. 719420  
CUSTOMER ACCOUNTS PURSUANT TO OAC )  
165:45-3-5 )

HEARING: July 1, 2021, in Courtroom B (virtual teleconference)  
2101 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105  
*Before* Linda S. Foreman, Administrative Law Judge

APPEARANCES: Michael S. Ryan, Assistant General Counsel *representing* Public Utility  
Division, Oklahoma Corporation Commission  
Jared B. Haines and A. Chase Snodgrass, Assistant Attorneys General  
*representing* Office of Attorney General, State of Oklahoma  
Curtis M. Long, J. Dillon Curran, and Johanna F. Roberts Attorneys  
*representing* joint applicants CenterPoint Energy Resources Corp.  
Southern Col Midco, LLC, and Summit Utilities Oklahoma, Inc.

**ORDER GRANTING JOINT MOTION TO ESTABLISH PROCEDURAL SCHEDULE**

The Corporation Commission (“Commission”) of the State of Oklahoma, being regularly in session and the undersigned Commissioners present and participating, there comes on for consideration and action the Joint Motion to Establish Procedural Schedule (“Motion”) filed by Joint Applicants CenterPoint Energy Resources Corp. (“CERC”), Southern Col Midco, LLC (“SC MidCo”), and Summit Utilities Oklahoma, Inc. (“SUO”) (collectively, “Joint Applicants”). The Motion was filed on June 24, 2021, set for hearing on July 1, 2021, and heard on that date.

**PROCEDURAL SCHEDULE**

Joint Applicants initiated this Cause on June 24, 2021, by filing their Joint Application seeking approval for the transfer of specified utility assets and customer accounts from CERC to SUO. Applicable rules of this Commission specify a hearing date for a Cause such as this should be commenced “within sixty (60) calendar days after the joint application” is filed. OAC 165:45-3-5(e).

Following discussions, all parties agreed to a procedural schedule, and counsel for Joint Applicants proposed the agreed schedule at the hearing on the Motion. Upon review, the Administrative Law Judge (“ALJ”) recommended approval of the procedural schedule, as follows:

Responsive Testimony filed by Public Utility Division, the Attorney General and Intervenors	July 23, 2021
Statements of Position filed	July 26, 2021

Rebuttal Testimony (if any) filed	August 5, 2021
Discovery Cut-off	August 12, 2021
Exhibit Lists filed and exchanged; Summaries of Testimony filed	August 13, 2021
Pre-hearing Conference, if necessary	August 17, 2021, at 1:30 p.m. in Courtroom B
Hearing on the Merits	August, 17, 2021, at 1:30 p.m. in Courtroom B

The Hearing on the Merits (“Hearing”) shall commence as noted above and shall continue until the record is closed. The Hearing shall be held each subsequent business day beginning at 9:30 a.m. unless otherwise directed by the ALJ. The Hearing will be held in Courtroom B located on the first floor of the Jim Thorpe Office Building, unless the ALJ directs otherwise. If the parties are able to dispose of the issues of this Cause by way of negotiated settlement, the dates contained herein may be modified by the ALJ after notice to the parties and hearing.

## **GENERAL PROVISIONS**

### **ORDER AND PRESENTATION OF TESTIMONY**

Witnesses at the Hearing shall be limited to those that have filed pre-filed testimony in this Cause according to the schedule set out above. The following order of witnesses shall be followed unless the ALJ directs otherwise:

- a. CERC
- b. SUO
- c. Intervenors
- d. Office of the Attorney General
- e. Public Utility Division

After admittance of the pre-filed testimony (direct, responsive, rebuttal) into the record, each witness shall then be permitted to offer oral surrebuttal testimony in response to any new matters raised in the rebuttal testimony of the other parties.

After the pre-filed testimony (direct, responsive, rebuttal) and oral surrebuttal testimony of the witness have been submitted into the record, the witness shall be tendered for oral cross-examination, which will be limited to issues presented by the testimony of the witness being examined. Redirect examination may follow and will be limited to issues which were raised during cross-examination or by questions of the ALJ.

### **SURREBUTTAL TYPE ISSUES**

1. Due to Joint Applicants having the burden of proof, after other parties have presented their testimony, summaries and statements of position, Joint Applicants, or either of them, may be allowed to present oral sur-surrebuttal testimony provided the requesting Joint Applicant can show that other parties have raised new issues which Joint Applicant was unable to

adequately address through cross-examination. The oral sur-surrebuttal shall be strictly limited to the new issues, whether raised in testimony or a statement of position.

2. Once Joint Applicants have presented their respective oral sur-surrebuttal testimony, the applicable witness shall be tendered for cross and redirect examination. Any cross-examination shall be limited to the issues addressed in the sur-surrebuttal testimony; likewise, the redirect examination will be limited to issues which were raised during cross-examination.

3. After Joint Applicants' sur-surrebuttal testimony and cross-examination, if any other party deems it necessary to request of the ALJ to be allowed to present further surrebuttal type testimony, the ALJ shall evaluate the request and make a determination based on the following criteria:

- a. Whether or not any new issue has been raised.
- b. Whether or not the party was able to adequately respond to the new issue during cross-examination.
- c. Whether or not additional testimony/evidence is needed as a matter of due process to the requesting party.
- d. Whether or not the additional testimony/evidence is necessary to perfect the record.
- e. Whether or not additional testimony/evidence is cumulative in nature and has been previously and sufficiently addressed.
- f. Whether or not any statutorily imposed time will permit further testimony/evidence.

#### **TESTIMONY SUMMARIES, STATEMENTS OF POSITION AND EXHIBITS**

On or before the date indicated above, any party not filing testimony but desiring to cross-examine witnesses at the Hearing must file a statement of position summarizing the party's position in the case.

The parties shall file of record and exchange summaries of their respective pre-filed testimony (direct, responsive, rebuttal) on or before the date indicated above. Summaries of testimony shall be used in the preparation of the ALJ Report and Recommendation and shall be transmitted to all parties and the ALJ in electronic format.

Each party presenting or cross-examining any witness shall file of record and exchange an exhibit list of all potential exhibits that may be utilized at the Hearing and shall exchange any exhibits that have not already been provided or received throughout the course of the proceeding on or before the date indicated above. All documents filed in the Court Clerk's office shall be presumed to be exhibits and need not be identified separately on the exchanged exhibit lists.

However, if for good cause shown, a party finds it necessary during the Hearing to present an additional exhibit(s) which was not listed on the exhibit list, such exhibit(s) shall not be allowed unless submitted to all parties as least twenty-four (24) hours prior to usage and permitted by the ALJ.

Exhibits not exchanged on or before the deadline in the Schedule, which could have been prepared based upon pre-filed testimony, will be offered only by agreement of all parties, subject to the ruling of the ALJ.

### **DISCOVERY AND OBJECTIONS**

Discovery shall be governed by OAC 165:5-11-1, except to the extent revised by this Order.

The parties have agreed that responses to all discovery requests shall be due within seven (7) business days of receipt, with objections to any discovery request due within three (3) business days, unless agreed otherwise. The parties have further agreed that responses to all discovery requests after rebuttal shall be due within four (4) business days of receipt, with objections to any discovery request due within three (3) business days, unless agreed otherwise. These timeframes are to apply to discovery already issued and to be issued in the future, regardless of when this Order is entered.

Any discovery request received after 3:00 p.m. shall be deemed received the next regular business day as provided for in OAC 165:5-11-1(e)(6).

Unless the parties agree otherwise, the response times for filing objections to discovery requests shall be as stated above, and a hearing on such an objection shall be set on the next motion docket unless specifically set on dates agreed to by the parties and as directed by the ALJ. All filed objections shall be accompanied by a filed notice of hearing. All times specified herein for filing documents shall be determined to be 4:30 p.m. unless specified otherwise.

Any objections to the testimony or qualification of any witness shall be made prior to the commencement of the Hearing. Any such motion, accompanied by a filed notice of hearing, shall be heard on any regularly scheduled motion docket that precedes the commencement of the Prehearing Conference, or at the Prehearing Conference, whichever is sooner, unless otherwise directed by the ALJ.

Service of data requests shall be by hand-delivery, fax, or electronic mail.

Except with respect to responses which are “confidential” or “highly sensitive confidential,” service of responses to discovery requests shall be made on all parties of record by hand-delivery, fax, or electronic mail sent by 4:30 p.m. With respect to responses containing “confidential” or “highly sensitive confidential” information, redacted responses shall be served upon all parties in the manner set forth above, and un-redacted responses containing “confidential” or “highly sensitive” information shall be offered for inspection in accordance with the provisions of the Protective Order and Proprietary Agreement in this Cause, if any.

Data requests and responses may be referred to and offered as exhibits at the Hearing.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

THE COMMISSION FINDS that it has jurisdiction in this Cause pursuant to Article IX, § 18, of the Oklahoma Constitution and 17 O.S. §§ 151 and 152.

THE COMMISSION FURTHER FINDS that notice of this Motion was proper as required by law and the rules of the Commission.

THE COMMISSION FURTHER FINDS that the procedural schedule and the general provisions set forth herein have been agreed to by the parties and should be adopted by the Commission and adhered to by the parties.

There being no oral exception taken to the recommendation of the Administrative Law Judge, such recommendation becomes the order of the Commission upon the signature of a majority of the Commission.

**ORDER**

THE COMMISSION THEREFORE ORDERS that the Procedural Schedule and the provisions set forth herein are hereby adopted and shall be adhered to by and among the parties to this Cause and the same shall become the order of the Commission.

THIS ORDER SHALL BE EFFECTIVE immediately.

CORPORATION COMMISSION OF OKLAHOMA

*Dana L. Murphy*  
\_\_\_\_\_  
DANA L. MURPHY, CHAIRMAN

*Bob Anthony*  
\_\_\_\_\_  
BOB ANTHONY, VICE CHAIRMAN

*J. Todd Hiatt*  
\_\_\_\_\_  
J. TODD HIATT, COMMISSIONER

**CERTIFICATION**

DONE AND PERFORMED by the Commissioners participating in the making of this Order, as shown by their signatures above, this 13th day of July, 2021.

BY ORDER OF THE COMMISSION:

*Peggy Mitchell*  
\_\_\_\_\_  
PEGGY MITCHELL, Commission Secretary



**REPORT OF THE ADMINISTRATIVE LAW JUDGE**

The foregoing findings, conclusions, and order are the report and recommendation of the undersigned Administrative Law Judge.

/s/ Linda S. Foreman  
LINDA S. FOREMAN  
Administrative Law Judge

July 7, 2021  
Date