

Dec 4 9 20 AM '07

**BEFORE THE
ARKANSAS PUBLIC SERVICE COMMISSION**

FILED

IN THE MATTER OF THE JOINT)
APPLICATION OF ARKANSAS OKLAHOMA)
GAS CORPORATION; ARKANSAS WESTERN)
GAS COMPANY; CENTERPOINT ENERGY)
RESOURCES CORP., D/B/A CENTERPOINT)
ENERGY ARKANSAS GAS; THE EMPIRE)
DISTRICT ELECTRIC COMPANY; ENTERGY)
ARKANSAS, INC.; OKLAHOMA GAS AND)
ELECTRIC COMPANY; AND)
SOUTHWESTERN ELECTRIC POWER)
COMPANY FOR AUTHORITY TO ESTABLISH)
A SINGLE DOCKET FOR THE FILING)
AND APPROVAL OF ALL DEEMED SAVINGS)
ESTIMATES APPLICABLE TO ENERGY)
EFFICIENCY PROGRAMS TO BE DEVELOPED)
AND IMPLEMENTED UNDER THE)
COMMISSION'S RULES FOR CONSERVATION)
AND ENERGY EFFICIENCY PROGRAMS)

DOCKET NO. 07- 152 -TF

JOINT APPLICATION

Arkansas Oklahoma Gas Corporation, Arkansas Western Gas Company, CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Arkansas Gas, The Empire District Electric Company, Entergy Arkansas, Inc., Oklahoma Gas and Electric Company, and Southwestern Electric Power Company (collectively, the "Utilities"), in support of this Joint Application for Authority to Establish a Single Docket for the Filing and Approval of all Deemed Savings Estimates Applicable to Energy Efficiency Programs to Be Developed and Implemented under the Commission's Rules for Conservation and Energy Efficiency Programs, state as follows:

1. Section 3 of the Commission's Rules for Conservation and Energy Efficiency Programs (the "EE Rules") defines "Deemed Savings" as follows:

Pre-determined, validated estimates of energy and peak demand savings attributable to particular energy efficiency measures, based upon engineering calculations, baseline studies and/or reasonable assumptions. Such savings are

generally those representing the difference between standard efficiency measures and energy efficient measures. Deemed savings values must be revised periodically to reflect new technologies and new federal, state or local policies and codes.

2. Section 5.C of the EE Rules states that each proposed energy efficiency program must address “estimated energy and peak demand savings and the basis for these savings estimates, which may include Deemed Savings *as approved by the Commission.*” (Emphasis added).

3. The EE Rules, therefore, appear to authorize only those deemed savings estimates that have been approved by the Commission for use in the filings of proposed energy efficiency programs.

4. It is the manner by which that Commission approval should be obtained that is the subject of this Joint Application.

5. As the Commission has recognized, deemed savings estimates are not a static set of measurements; rather “it is typically a living document that is augmented over time based on field experience.” Docket No. 06-004-R, Order No. 12 at pp. 27-29. Thus, the Utilities anticipate that, after the initial set of deemed savings estimates are approved, the need to update, modify and augment those estimates will continue indefinitely for so long as Commission-regulated energy efficiency programs continue to exist.

6. The Commission, having recognized that deemed savings estimates “must of necessity be revised periodically,” has also previously found that “it need not conduct a formal rulemaking or adjudication of each and every Deemed Savings estimate.” Docket No. 06-004-R, Order No. 17 at p. 3.

7. Consistent with that Commission finding, the Utilities believe that it would be in the public interest to establish up front an efficient and streamlined procedure for the filing and

approval of all deemed savings estimates for use under the EE Rules that does not involve a formal rulemaking or adjudication.

8. The Utilities therefore hereby propose that the Commission issue an order in this Docket establishing this Docket as the exclusive docket in which all proposed deemed savings estimates are to be filed for approval and use with respect to all energy efficiency programs filed and implemented under the EE Rules and authorizing the Utilities to begin filing such estimates in this Docket for that purpose upon the effective date of such order.

9. The Utilities believe that this Docket is an appropriate vehicle for the filing, consideration and approval of deemed savings estimates primarily for two reasons.

10. First, the Utilities believe that Docket No. 06-004-R is a rulemaking docket, which makes it an inappropriate docket for the approval of deemed savings estimates that are not intended to be formally part of the EE Rules, especially in light of the Commission's finding (*see* ¶ 6 above) that it does not believe that deemed savings estimates require a formal rulemaking. Moreover, there is precedent for establishing a separate docket for filings made pursuant to rules adopted by the Commission. In Docket No. 06-112-R, the Commission adopted affiliate transaction rules that included filing requirements, and the Commission established separate dockets for the Utilities to make those filings. Also, the applications for approval of the programs filed under the EE Rules were filed and approved in separate TF dockets rather than in the docket that established those rules, Docket No. 06-004-R.

11. On April 2, 2007, the Utilities filed their initial deemed savings estimates in Docket No. 06-004-R for Commission approval. On May 1, 2007, the Utilities filed revisions to certain of those deemed savings estimates for Commission approval in that same docket. The Commission has not yet acted on those initial and revised deemed savings estimates. Because

the Utilities believe that Docket No. 06-004-R is an inappropriate docket for the consideration and approval of deemed savings estimates, in conjunction with this Joint Application, the Utilities have also filed a Joint Motion in Docket No. 06-004-R requesting the Commission's permission to withdraw from the Commission's consideration the deemed savings estimates filed by the Utilities on April 2, 2007 and May 1, 2007 in that docket.

12. The second primary reason underlying the Utilities' request herein is that, in recognition of the facts that (1) deemed savings estimates are not static, but instead require periodic modifications on an on-going basis and (2) only Commission-approved deemed savings estimates may be used under the EE Rules, procedures should be established for obtaining that approval in an efficient, timely and streamlined manner that does not require testimony or a formal hearing, yet in a manner that also allows a reasonable opportunity for interested parties to review and object to the proposed deemed savings estimates that have been filed before they become effective.

13. The Utilities believe that filing all deemed savings estimates in this Docket will provide the most efficient method for approving initial and revised deemed savings estimates for use by the Utilities for their Quick Start Programs currently underway, as well as for the development and filing of their Comprehensive Programs scheduled for implementation in 2010, while also providing the necessary safeguards to ensure that all interested parties have an opportunity to review and be heard on those estimates before they go into effect..

14. TF dockets are governed by Section 11 of the Commission's Rules of Practice and Procedure ("Practice and Procedure Rules") and are intended to be used, *inter alia*, for the filing of tariffs "not accompanied by a formal petition or application." Rule 11.02. The Practice and Procedure Rules do not define the term "tariff," but it is generally given a broad meaning

and includes anything filed by a utility with the Commission in a TF docket that is related to the terms and conditions under which it can provide a service. Energy efficiency programs under the EE Rules constitute a utility service, and deemed savings estimates are related to the terms and conditions under which those programs are to be approved and administered.

15. The following rules in Section 11 of the Practice and Procedure Rules should apply to all deemed savings estimates filed in this Docket:

- (a) Rule 11.02(a);
- (b) Rule 11.02(b); and
- (d) Rule 11.05.

The other rules in Section 11 of the Practice and Procedure Rules should not apply to filings of deemed savings estimates made in this Docket (especially Rule 11.02(c), which requires tariff filings containing substitutions, withdrawals, additions, and other changes to be filed in a new TF docket -- such a requirement would completely defeat the purpose of this Joint Application).

16. Under Rule 11.05 of the Practice and Procedure Rules, deemed savings estimates filed in this Docket will become effective thirty days after they are filed “unless the Commission otherwise orders.”

17. The Utilities believe that the deemed savings estimates filed in this Docket will generally not be controversial, as they will be the result of the services obtained by an independent firm, which initially and for the foreseeable future will be Frontier Associates. Nevertheless, in addition to the applicable requirements in Section 11 of the Practice and Procedure Rules, the order establishing this Docket as the Docket for the filing of all deemed savings estimates can include other procedural safeguards that the Commission may believe is in

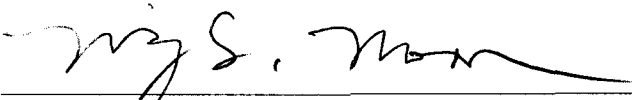
the public interest, such as allowing any interested party objecting to a filing to file a written objection with the Commission before the 30-day period in Rule 11.05 expires.

18. By issuing an order in this Docket mandating that all deemed savings estimates to be approved by the Commission under the EE Rules must henceforth be filed in this Docket pursuant to the applicable provisions of Section 11 of the Practice and Procedure Rules, the Commission will be able to accomplish its goal of establishing a procedural vehicle for approving deemed savings estimates without the necessity of conducting a formal rulemaking or adjudication every time those estimates have to be modified, which allows for the efficient and streamlined approval of those estimates, and which protects the interests of all parties.

Based on the foregoing, the Utilities respectfully ask that the Commission issue an order in this Docket (a) establishing this Docket as the exclusive docket in which all proposed deemed savings estimates are to be filed for approval and use with respect to all energy efficiency programs filed and implemented under the EE Rules, (b) ordering that all such filings shall be governed by the applicable provisions of Section 11 of the Practice and Procedure Rules, including Rule 11.05 thereof, and by such other procedural safeguards as the Commission considers just and reasonable, and (c) authorizing the Utilities to begin filing such estimates in this Docket for that purpose upon the effective date of such order.

Respectfully submitted,

**CENTERPOINT ENERGY RESOURCES CORP.,
D/B/A CENTERPOINT ENERGY ARKANSAS GAS**

By: 

Kenny W. Henderson

Arkansas Bar #86087

Mickey S. Moon

Arkansas Bar #2006026

401 West Capitol Avenue, Suite 102

Little Rock, Arkansas 72201

(501) 377-4612

ON BEHALF OF THE UTILITIES

CERTIFICATE OF SERVICE

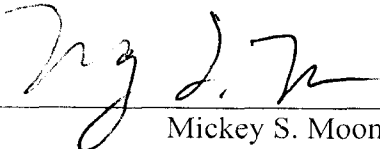
I, Mickey S. Moon, hereby certify that a copy of the foregoing has been served on the below-listed persons by electronic mail, hand delivery, and/or first class, postage prepaid, U.S. mail on the 4th day of December, 2007.

Mr. John Bethel, Director
Arkansas Public Service Commission
1000 Center Street
Little Rock, AR 72201

Mr. Robert Booth, Manager
Arkansas Public Service Commission
1000 Center Street
Little Rock, AR 72201

Ms. Valerie Boyce
Arkansas Public Service Commission
1000 Center Street
Little Rock, AR 72201

Ms. Sarah R. Tacker
Office of the Attorney General
323 Center Street, Suite 200
Little Rock, AR 72201



Mickey S. Moon