

BEFORE THE ARKANSAS PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE APPLICATION OF SOUTHWESTERN ELECTRIC POWER COMPANY FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED FOR THE CONSTRUCTION OWNERSHIP, OPERATION AND MAINTENANCE OF THE PROPOSED 345 KV TRANSMISSION LINE BETWEEN THE SHIPE ROAD STATION AND THE PROPOSED KINGS RIVER STATION AND ASSOCIATED FACILITIES TO BE LOCATED IN BENTON, CARROLL AND/OR MADISON AND WASHINGTON COUNTIES, ARKANSAS

DOCKET NO: 13-041-U

PETITIONER SAVE THE OZARKS' MOTION FOR LEAVE TO FILE SURREPLY ON SWEPCO'S NOTICE OF WITHDRAWAL OF SWEPCO'S APPLICATION FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED

Intervenor Petitioner not-for-profit corporation Save the Ozarks (STO) hereby, by counsel, respectfully submits its Motion for Leave to File Surreply on Southwest Electric Power Company's (SWEPCO) Notice of Withdrawal of SWEPCO'S Application for a Certificate of Environmental Compatibility and Public Need (CECPN) for construction of a new 345 kV transmission line. In support of STO's Motion for Leave to File Surreply, STO states as follows.

1. A Surreply by STO would be helpful to the Commission in determining the proper course in the above captioned docket because SWEPCO, Southwest Power Pool (SPP), and Arkansas Electric Cooperative Corporation (AECC) in their Joint Reply asserted and relied upon certain purported Commission precedent and case law but failed to cite to any Commission or Court decisions to substantiate these assertions. The details of these unsupported assertions of legal authority are explained in the accompanying STO Surreply memorandum, which is incorporated here for the limited purpose of the articulation of examples of such unsupported assertions of legal authority by SWEPCO, SPP, and AECC.

2. A Surreply by STO would be helpful to the Commission in determining the proper course in the above captioned docket because SWEPCO, SPP, and AECC in their Joint Reply made material misrepresentations. The details of these material misrepresentations are explained in the accompanying STO Surreply memorandum, which is incorporated here for the limited purpose of the articulation of examples of such material misrepresentations by SWEPCO, SPP, and AECC.

3. There is an important issue, an apparent issue of first impression, for the Commission to decide in this case which relates to the extent of the broad authority the General Assembly has delegated to the Commission. SWEPCO, SPP, and AECC assert that the Commission has no authority to award attorney fees in a CECPN case but cite only to legislative history relating to consumer complaint cases and to cases relying on that legislative history regarding consumer complaints. STO on the other hand has argued that because the General Assembly has clearly delegated to the Commission, somewhat unusually, all the authority necessary for the performance of the Commission's duties, whether explicitly stated in a statute or not, the presumption in this case, as contrasted with the usual case regarding the limits of agency authority, should be that the Commission has any and all authority related to the performance of its duties unless a statute explicitly takes that authority away, an event that has not occurred in regards to the power to award attorney fees in CECPN cases. This appears to be the first case where the Commission has been called upon to consider this question of whether it possesses any and all authority and powers related to the performance of its duties unless a particular power has been withdrawn explicitly by statute. Therefore, it would be appropriate for the Commission to allow STO's proffered Surreply so that the Commission may be more fully

informed as to what authority does, and does not exist on this question of its power to award fees in a CECPN case.

CONCLUSION AND RELIEF REQUESTED

For all of the foregoing reasons, STO respectfully requests that the Commission grant STO leave to file the accompanying Surreply.

Respectfully submitted,

/s/ Mick G. Harrison

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CERTIFICATE OF SERVICE

The undersigned certifies that on March 17, 2015, a true and correct copy of the foregoing STO Motion for Leave to File Surreply on SWEPCO's Notice of Withdrawal was served on all parties of record by electronic mail and first class mail.

/s/ Mick G. Harrison
Mick G. Harrison, Esq.