

**BEFORE THE CORPORATION COMMISSION OF OKLAHOMA COURT CLERK'S OFFICE - OKC  
CORPORATION COMMISSION  
OF OKLAHOMA**

IN THE MATTER OF THE APPLICATION FOR  
A CHANGE OR MODIFICATION IN THE  
RATES, CHARGES AND TARIFFS OF FORT  
COBB FUEL AUTHORITY, L.L.C.

CAUSE NO. PUD 201000026

HEARING: October 3, 2012, in Courtroom B  
2101 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105  
*Before James L. Myles, Administrative Law Judge*

APPEARANCES: Ron Comingdeer and Mary Kathryn Kunc, Attorneys *representing* Fort  
Cobb Fuel Authority, L.L.C.  
Elizabeth Cates, Interim Deputy General Counsel *representing* Public  
Utility Division, Oklahoma Corporation Commission  
William L. Humes and Nicole A. King, Assistant Attorneys General  
*representing* the Office of the Attorney General of Oklahoma

**INTERIM REPORT OF THE ADMINISTRATIVE LAW JUDGE**  
**(REVENUE REQUIREMENT)**

Upon review of all the testimony and filings in this case, and after a thorough review of all the evidence presented at the hearing on the merits in this Cause, the Administrative Law Judge ("ALJ") submits this Report to the Corporation Commission of Oklahoma ("Commission") as to issues determining the revenue requirement of Fort Cobb Fuel Authority, L.L.C. ("Applicant" or "Fort Cobb"). Included in this Report are the ALJ's recommended findings of fact and conclusions of law.

By way of explanation, please note that this report is entitled "Interim" report of the ALJ (Revenue Requirement). This report deals with issues relating to the revenue requirement only. By agreement of the parties, its findings are to be utilized, without objection, for the wrapping up of the case in determining rate design. Once the rate design phase is undertaken, the ALJ will issue a "Final" report that will determine all issues, including revenue requirement and rate design, which will be the ALJ's final recommendation to the Commission. At that point in time, the "Final" ALJ report will be subject to the parties' filing of exceptions, if desired, pursuant to the rules of the Commission.

**I. PROCEDURAL HISTORY**

On March 5, 2010, Fort Cobb filed its Notice of Intent to file an application for a general rate change.

On April 29, 2010, Fort Cobb filed a Motion requesting that the Commission allow Fort Cobb to use as its test period in the cause the twelve months ending March 31, 2010. The motion was granted by the Commission by Order No. 575780, issued May 26, 2010.

On May 12, 2010, the Oklahoma Attorney General (“AG”) filed his entry of appearance.

On September 21, 2010, Applicant filed a motion for protective order. The motion was granted by the Commission by Order No. 579062 issued September 30, 2010.

On September 30, 2010, the Applicant filed its original application, together with the associated schedules and work papers in two volumes. In addition the testimony of Thomas Hartline was filed on behalf of the Applicant.

On October 22, 2010, Fort Cobb filed a request for interim relief in the cause. Associated with that filing are the following pleadings:

- On October 22, 2010, Applicant filed a motion for procedural schedule for the requested interim relief. This motion was granted by the Commission by Order No. 580268 issued on November 12, 2010.
- Also on October 22, 2010, Applicant filed a motion to establish notice requirements for the requested interim relief. This motion was granted by the Commission by Order No. 580269 issued on November 12, 2010.
- On November 30, 2010, responsive testimony of Brandy Wreath was filed on behalf of the Commission’s Public Utility Division (“PUD”).
- Also on November 30, 2010, the AG filed a Statement of Position.
- On December 8, 2010, a hearing on the merits for the requested interim relief was held before ALJ Maribeth D. Snapp.
- On December 28, 2010, the Commission granted interim relief in this cause by Order No. 581540.

On January 7, 2011, Applicant filed a motion for procedural schedule. This motion was granted by the Commission by Order No. 582773 issued on February 17, 2011.

On February 11, 2011, Applicant filed a motion to establish notice. This motion was ultimately withdrawn by the Applicant and the procedural schedule in the case was suspended by the Commission by Order No. 583499 issued on March 14, 2011.

While the cause procedural schedule was suspended, by agreement of the parties, on December 9, 2011, PUD filed the responsive testimonies of Tonya Hinex-Ford, Kiran Patel, Sharon D. Fisher, Karen Forbes, Nicolas Fiegel, George F. Kiser, and Javad S. Seyedoff.

Effective March 1, 2012, the cause was transferred to ALJ James L. Myles upon his appointment to ALJ Maribeth D. Snapp’s position on the bench. As ALJ Myles had previously served as Deputy General Counsel within the Commission’s Office of General Counsel and during his time there had represented PUD Staff in this Cause, he inquired of the parties as to whether or not they would waive any potential disqualification that might reasonably be asserted pursuant to the Canons of Administrative Judicial Conduct that have been adopted by the Commission, specifically Canon 3(C)(1)(c). All parties waived the potential disqualification by filing their respective Remittal of Disqualification on the following dates: March 14, 2012 – Fort Cobb; April 18, 2012 – Attorney General and PUD Staff.

On April 6, 2012, the PUD filed a motion to re-establish procedural schedule. The motion was granted by the Commission by Order No. 597617 issued on May 15, 2012.

On May 16, 2012, PUD filed its Accounting Exhibit and the responsive testimonies of Fairo Mitchell and Robert C. Thompson.

On June 15, the AG filed his statement of position as to the revenue requirement required for Fort Cobb.

On July 30, Applicant filed the rebuttal testimony of Thomas Hartline.

On August 1, 2012, Applicant file a motion to establish notice. The motion was granted by the Commission by Order No. 601603 issued on September 4, 2012. On October 2, 2012, Fort Cobb filed an Affidavit of Mailing indicating that notice of the hearing was mailed to all customers on September 14, 2012.

On September 4, 2012, the Commission also issued Order No. 601602 which amended the established procedural schedule for the cause.

On September 27, 2012, PUD filed its sur-rebuttal accounting exhibit and the sur-rebuttal testimonies of Robert Thompson and Fairo Mitchell.<sup>1</sup> On this same date the PUD filed summaries of the testimonies of all its witnesses.

On October 3, 2012, the hearing on the merits was held insofar as to all revenue requirement issues. At the conclusion of the hearing, the ALJ took the revenue requirement issues under advisement, stated that he would issue his ALJ Report as to those issues on or before October 31, 2012, and continued the hearing to December 6, 2012, at 1:00 p.m. for the purpose of hearing the balance of the case, being rate design issues.

On October 16, 2012, PUD filed its proposed findings of fact and conclusions of law. On that same date Fort Cobb filed its proposed summary of evidence, ALJ report and recommendation. On October 17, 2012, the AG filed his proposed findings of fact and conclusions of law.

## **II. SUMMARY OF THE EVIDENCE**

A summary of the prefiled testimony of the parties and the testimony given at the hearing on the merits is in Attachment “A” hereto. Additional testimony and cross-examination is available from the transcript of the hearing. All testimony and hearing exhibits were considered by the ALJ in the determination of the ALJ’s recommendation in this Cause.

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<sup>1</sup> Mr. Mitchell’s testimony was titled “Pre-Filed Responsive Testimony”, but this was corrected by him at the hearing on the merits.

### III. ANALYSIS

This Cause comes before the Commission by virtue of the application for a general rate change filed by Fort Cobb.

During the course of the cause, the parties agreed that the case would be bifurcated whereby an initial hearing on the merits would be held to determine the revenue requirement needed for Fort Cobb going forward. It was agreed that once the revenue requirement was determined, that a subsequent hearing would be held to determine the rate design to utilize.

Although the parties spent a good deal of time at the hearing discussing and cross examining on the issue of who has the burden of proof in a rate case, it is not necessary to discuss or make any determination as to that issue here. Both parties presented evidence as to their various positions as to the disputed issues within this case. Substantial evidence exists to allow the Commission to make reasonable and well supported decisions as to those issues so I will not spend time in discussing the burden of proof.

At the revenue requirement hearing the parties announced that most issues that had originally been unresolved had now been agreed to. However, despite the concerted efforts of the parties, there remained five issues that were still in dispute. Those remaining disputed issues are:

1. the amount of capitalization of legal fees associated with acquisitions
2. the beginning test year balance of the plant account and associated accumulated depreciation balance of an acquisition adjustment authorized by the Commission in Cause PUD 200900096, Order No. 523456
3. the appropriate level of depreciation rates for the Company
4. whether recovery of actual bad debt expenses verses a three year average should be allowed
5. the level of recovery of miscellaneous expenses incurred by the executives of the Company, including travel, use of personal vehicles for Company purposes, and other miscellaneous operating expenses

Only those disputed issues are addressed in this ALJ report since the Company and PUD Staff have agreed to all others.

#### **Issue 1 – Capitalized Legal Fees:**

The testimony of Ms. Kiran Patel on behalf of the PUD staff indicated that she reviewed total legal fees of \$60,311 included in the cost of service for the test year ending March 31, 2010, and determined that \$51,560 was related to system acquisitions. She made an adjustment recommending that the \$51,560 be deducted from the outside services/legal fees expense in cost of service. She then stated that Bob Thompson would make the recommendation as to how

much of the \$51,560 should be capitalized and amortized over the useful life of the acquisitions. (Patel 12/9/11 testimony, page 8)

With regard to legal fees associated with system acquisitions, Mr. Bob Thompson stated that “(t)hese costs are all allowable and added into the total value of the physical plant when they are prudently incurred.” (Thompson 5/16/12 testimony, page 18) However, he had taken Ms. Patel’s recommendation and proposed to limit the legal fees associated with system acquisitions to 25% of the PUD’s calculation of the value of the acquisition. He stated that “PUD recommends addressing the legal fee reasonableness through the future use of an economic modeling test as previously discussed. As no modeling was provided in this case, PUD used the 25% as a benchmark rather than disallowing all associated investments.” (Thompson 9/27/12 testimony, page 15) This method resulted in a reduction in rate base of \$35,750 from Ms. Patel’s total \$51,560 expense deduction.

The Company testified, and the Staff confirmed, that the indicated legal expenses were actually incurred for the acquisitions. The acquisitions are in service, used and useful, and are part of Fort Cobb’s combined system.

As Staff stated, it is appropriate to capitalize legal fees associated with acquisitions so far as they are prudently incurred. PUD Staff stated that future economic modeling tests should be utilized to help in the determining of prudence as to acquisitions, but admitted that was not available for those costs at issue. Staff offered the 25% limitation as an alternative, stating that this was a “benchmark” to prevent the disallowance of all fees. I find this recommendation to be arbitrary and not supported by any analysis or evidence.

Therefore, the total legal fees incurred associated with acquisitions in the amount of \$51,560 should be capitalized and recovered over twenty years.

### **Issue 2 – Accumulated Acquisition Adjustment:**

Mr. George Kiser testified that in Cause No. PUD 200000248, PUD recommended that an acquisition adjustment premium be adjusted out of the rate base. However, that cause was determined by way of a stipulation entered into by the parties, which was approved by the Commission by Order No. 447875 dated December 28, 2000. The order and the stipulation filed December 21, 2000, in that cause are both silent on the acquisition premium issue.

The acquisition premium issue next appeared in Cause No. PUD 200600096, Fort Cobb’s last general rate change case. That cause occurred prior to the current owners of Fort Cobb purchasing the company. Like in Cause No. PUD 200000248, PUD recommended that an acquisition adjustment premium be adjusted out of the rate base. That cause also was determined by way of a stipulation entered into by the parties, which was approved by the Commission by Order No. 532456 was signed November 21, 2006, with the acquisition premium included in rate base. Again, the acquisition premium issue was not addressed in the stipulation or the final order. The Company has amortized using the twenty year life as suggested in PUD testimony filed in Cause No. PUD 200000248, if it were to be allowed.

Fort Cobb's rates have been based on the noted acquisition premium being allowed for 12 years now. It is reasonable that a subsequent owner would rely on Commission Orders and booked balances in the plant account and associated accumulated depreciation accounts when acquiring the company.

Sufficient evidence exists in the record for the Commission to find that the Company should be allowed to use the balances as reflected in PUD Staff's testimony in Cause PUD 200600096 and continue to amortize the \$44,998 per year from December 31, 2005, forward. This finding increases PUD staff's proposed rate base by \$143,303.

### **Issue 3 – Depreciation Expense:**

There was extensive testimony regarding the level of depreciation rates. The company proposed certain depreciation rates based on its review of the type of assets under consideration, a combination of rates provided by the Commission in the last rate cases of Fort Cobb and LeAnn, and other rates that they use for income tax depreciation. PUD Staff proposed its depreciation rates utilizing a comparison of the depreciation rates requested by the company to those of other utilities in Oklahoma (both gas and electric for similar accounts). PUD Staff then recommended a depreciation study be performed by the company in order to provide a more accurate and representative set of rates based upon their usage patterns. (Thompson 5/16/12 testimony, page 33)

Neither the company, nor PUD's positions are based on actual depreciation studies. As such, it is reasonable to decide which would be the most accurate representation of depreciation rates for a natural gas utility. I find that the position taken by PUD Staff, which utilized the values of other natural gas utilities is the most reasonable method to use absent an actual depreciation study. Therefore, this results in a reduction in depreciation expense requested by the company of (\$114,019).

### **Issue 4 – Bad Debt Expense:**

Mr. Hartline testified that the Company has and continues to use a consistent direct write-off method and the bad debt expense has increased since 2009 and has remained persistently higher due to the recession and ongoing weak economy in addition to the more transient nature of the customers.

Mr. Seyedoff, on behalf of PUD did not recommend the inclusion of the write-offs, as they appeared to be a non-recurring item associated with a special payment program on the LeAnn gas system. PUD used a three year average of bad debt to revenue for 2008, 2009, and 2010 and applied that percentage to gross revenue for the test year. The calculated percentage is 1.034. This calculation represents an annualized bad debt expense level for PUD's recommendation.

Mr. Hartline testified that PUD's average does not reflect the changes and ongoing economic situation that occurred during the test period and subsequent period. However, the purpose of annualizing expenses is to do just that. In the event the economy would improve

going forward, and bad debts decreased, the three year average would work to the benefit of the company. This is standard treatment in rate cases as to bad debt expense.

I recommend that the Commission find that the PUD Staff's treatment of bad debt expenses be adopted and that its proposed reduction to bad debt expense of (\$21,374) be adopted. This reduction is based on PUD's three year average of bad debt to revenue for 2008, 2009, and 2010, with the resulting percentage applied to gross revenue for the test year. (Seyedoff 12/09/11 testimony, pages 14-15)

### **Issue 5 – Miscellaneous and Travel Expense:**

#### **Miscellaneous expenses**

The company has requested rates based in part on certain miscellaneous expenses that were incurred in the test year. The PUD Staff has made an adjustment to those expenses based on them not being fully supported and documented. Mr. Hartline indicated that he was not able to fully support those expenses because documentation was not available. This because “. . . it was determined that time would be better spent on the actual operations of the company rather than the tedious task of record keeping for this type of expense.” (Hartline 7/30/12 rebuttal testimony, page 3)

Mr. Mitchell testified that PUD did not summarily deny reimbursement, that the expenses were substantial, especially considering the size of the utility, and that PUD did not believe that it was overly burdensome for the utility to track and support all expenses for employees. (Mitchell 9/27/12 surrebuttal testimony, page 12) I agree. Especially since these are direct expense, dollar for dollar reimbursements paid by the ratepayers in rates. Finally, Mr. Mitchell testified that the decision to disallow the expenses was not because of the fact that they were resulting from the executive's choice to live in California. He testified that PUD's decision would be the same if the parties involved lived in Oklahoma. Manly that being the inadequate support and documentation of the expenses. (Mitchell 9/27/12 surrebuttal testimony, page 13)

I recommend that the Commission accept Staff's proposed adjustment to lower the California reimbursements by (\$95,233).

#### **Travel expenses**

Ms. Fisher testified as to the methods she utilized to determine a reasonable travel budget. She conducted a survey of other utilities. She asked questions about the frequency of travel, the length of stays and the number of unforeseen emergency trips. She asked questions about the type of expenses experienced. She included the cost of lodging, meals and vehicle rental for trips to Oklahoma. Her estimate is based on independent resource information and interviews with Company representatives. (Fisher 12/09/11 testimony, page 9)

The company asserts the Commission is without authority to invade management discretion on where its headquarters is located. That is true. But, Staff's proposed adjustment does not tell the company where it should headquarter, or how many trips executives should take

to Oklahoma, it merely sets a reasonable limit on the travel expenses that the rate payers should be responsible for in rates.

I recommend that the Commission accept Staff's proposed adjustment to allow a \$30,000 travel expense.

#### **IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After review of all the testimony and filings in this cause, and after a thorough review of all the evidence presented at the hearing on the merits on revenue requirements, including all the filed exhibits and exhibits entered into the record at the hearing, the ALJ recommends that the Commission make the following Findings of Fact and Conclusions of Law:

THE COMMISSION FINDS that it is vested with 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 has been properly given in accordance with the Commission's rules and Order No. 601603 with notice being mailed to all customers on September 14, 2012.

THE COMMISSION FURTHER FINDS that effective March 1, 2012, James L. Myles was appointed to the office of ALJ. At that time, this Cause was transferred from ALJ Maribeth D. Snapp to ALJ Myles. As ALJ Myles had previously served as Deputy General Counsel within the Commission's Office of General Counsel and during his time there had supervisory authority over the initial Counsel representing PUD Staff in this Cause, and later actually representing PUD Staff in this Cause, he inquired of the parties by e-mail as to whether or not they would waive any potential disqualification that might reasonably be asserted pursuant to the Canons of Administrative Judicial Conduct that have been adopted by the Commission, specifically Canon 3(C)(1)(c). All parties agreed to waive the potential disqualification of ALJ Myles and agreed that he should not be disqualified from the above-captioned matter by filing their respective remittals of disqualification on the following dates: March 14, 2012 – Fort Cobb; April 18, 2012 – AG and PUD Staff.

THE COMMISSION FURTHER FINDS that the total legal fees incurred associated with acquisitions in the amount of \$51,560 should be capitalized and recovered over twenty years.

THE COMMISSION FURTHER FINDS that the Company should be allowed to use the balances as reflected in PUD Staff's testimony in Cause PUD 200600096 and continue to amortize the \$44,998 per year from December 31, 2005, forward. This finding increases PUD staff's proposed rate base by \$143,303.

THE COMMISSION FURTHER FINDS that as to the issue of depreciation, the position taken by PUD Staff, which utilized the values of other natural gas utilities is the most reasonable method to use absent an actual depreciation study. Therefore, this results in a reduction in depreciation expense requested by the company of (\$114,019).



THE COMMISSION FURTHER FINDS that the PUD Staff's treatment of bad debt expenses should be adopted and that its proposed reduction to bad debt expense of (\$21,374) be adopted.


THE COMMISSION FURTHER FINDS that the Commission accepts Staff's proposed adjustment to lower the California reimbursements by (\$95,233) and accepts Staff's proposed adjustment to allow a \$30,000 travel expense.

THE COMMISSION FURTHER FINDS that all other relevant issues that are necessary to determine Fort Cobb's revenue requirement shall be utilized as agreed to by the parties.

V. **RECOMMENDATION**

The ALJ recommends the Commission adopt the Findings of Fact and Conclusions of Law detailed above and find the adjustments detailed above should be made in order to determine the revenue requirement necessary to determine rates for Fort Cobb Fuel Authority, L.L.C. effective with the final order to be issued in this cause.

Respectfully submitted this 2nd day of November, 2012.

  
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JAMES L. MYLES  
Administrative Law Judge

**Attachment A – Summary of Testimony**

**FORT COBB FUEL AUTHORITY, L.L.C.**

**Thomas Hartline**

Mr. Thomas Hartline Chief Financial Officer, Secretary and Treasurer of Fort Cobb Fuel Authority L.L.C. (“Fort Cobb”) testified on behalf of the Company. He testified about the operations of Fort Cobb and sponsored all Schedules contained in the filing package as required by OAC 165:70-5-4 as applicable to a class B gas utility, except those for which the Company received a waiver.

He testified that Fort Cobb, excluding the LeAnn Division, furnishes natural gas service to residential, agricultural and industrial customers located in several counties in rural Oklahoma. The assets of Fort Cobb consist of the gas distribution facilities, including mains, regulator stations, and metering equipment. Through its operator, Navitas Utility Corporation, Fort Cobb purchases gas from a third party, a non-affiliated gas supplier, and distributes it to our customers. Fort Cobb is unique in that the system is dual peaking with a large amount of its natural gas consumption being in the summer months by our agricultural customers.

Mr. Hartline testified that one of the objectives the Company requested to reduce its rates was to move the Company toward a uniform tariff structure applicable to all of Fort Cobb’s natural gas operations. Because of the difference in the tariff structures and level of rates, Fort Cobb understands they may not be able to achieve 100% uniformity in rates in this cause, but believe it is in the best interest of the Company’s customers to achieve parity in structure of its tariff for all our operations in this cause and then over time make the rates uniform as well. Mr. Hartline testified that another objective of the Company’s request to reduce its rates is because Fort Cobb is committed to keeping its customers on the system rather than losing them to alternative energy such as propane and electricity. As a rural gas company the Company realizes that their rates are higher than those of urban utilities due to lack of density and the large rural areas where it provides service, coupled with the age of the system. Notwithstanding, Fort Cobb has made great progress in lowering lost and unaccounted for gas (LUFGE), repairing and replacing the old gas lines and remain committed to doing other things to streamline the operations of the many subsystems the Company has purchased and combined into one operation. He further stated that it is an objective of the Company to keep all of its customers on the system, including its largest users. He explained that the Company’s irrigation customers are responsible for a substantial portion of annual natural gas sales and all of customers benefit from retaining and hopefully adding new customers on the system.

Mr. Hartline then further explained the improvements made by the Company. Mr. Hartline explained that on January 1<sup>st</sup> of 2013 the company is working toward implementing the uniform system of accounts (USOA) expense accounting as requested by PUD staff. The system operator, Navitas Utility corporation, is in the process of matching accounts to conform to the extent possible to a blended USOA for gas and telephone. Additionally, it is the Company’s

understanding that QuickBooks Enterprise Accounting software, the 2013 edition, which is the software used by the Company will allow the mapping of the accounts. This mapping should allow the Company to present the balance sheet in accordance with USOA accounting, even though the Company keeps its accounting in GAAP format. On January 1<sup>st</sup>, 2012, at the suggestion of the Oklahoma Corporation Commission the company refined and detailed the subsystem allocation system as discussed in Mr. Hartline’s rebuttal testimony filed in this cause on July 30, 2012. Beginning in 2010, the Company had a full, external accounting audit performed. That audit occurred again in 2011. Both audits in 2010 and 2011 came back clean with an unqualified audit letter. In 2010 the Company also, as part of the QuickBooks Enterprise software, was able to begin attaching electronically the original invoices from vendors to the accounting system so that if someone looks at any accounting entry in the Company’s system they will be able to go right to the source document within the system. We believe this feature will substantially aide future reviews of the Company’s books and records. In 2009 the Company standardized the technology across all its subsystem locations, improving efficiency and work flow. In 2009 the Company also expanded its meter shop to handle the increase in the meter change-out program. Under the Commission’s rules we must test each meter at least once every ten years. To test the meters the Company must remove the meter from service and replace it with a working meter. The Company then tests the meters and if necessary refurbish the meters to be put back in service sometime in the future. Additionally, in 2009 we also implemented a new billing system to improve efficiency and handle the customer billing. Mr. Hartline testified that all of these improvements were designed to respond to the concerns identified by the PUD staff.

Mr. Hartline then explained an issue that arose in a different jurisdiction that necessitated a clarification to his prefiled testimony in this cause. He stated that in discussions with another regulatory body he was made aware of the fact that the operator, Navitas Utility Corporation, does not markup third-party services, as markup has a particular meaning within the regulatory framework. Rather, a project management and administration fee is passed through to recover the associated costs. Thus, he revised his prefiled testimony to reflect the language change from markup to project management and administrative fee.

Mr. Hartline then proceeded to explain the few issues that separate the PUD staff’s filed position and the one now recommended by the Company. He stated that as the company understands the issues today, the total revenue requirements difference between PUD staff and the Company is \$192,571. The position of the Company as set forth in the red-line accounting exhibit requested in a staff DR and filed as an attachment to the supplemental testimony on August 31<sup>st</sup>, 2012, when put in the staff revenue requirement model is three million, four hundred forty thousand, six hundred and eight dollars (\$3,440,608). The position of the staff in the accounting exhibit filed as sur-rebuttal September 27, 2012, is three million, two hundred forty-eight thousand and thirty-seven dollars (\$3,248,037). He testified that this difference is made up of adjustments to rate base and to the expenses included or excluded in the operating income statement.

Mr. Hartline then proceeded to identify and explain the unresolved rate-base issues. He identified PUD staff’s proposed adjustment to accumulated depreciation associated with an acquisition adjustment previously recognized by the Commission in Cause No. PUD 200900096

when the Commission approved a Stipulation between the PUD staff and the Company in Order No. 532456. The Company retained the booked amounts, as reflected in the PUD staff’s exhibits and agreed to in the Stipulation approved by Order No. 532456 and continued to amortize the \$44,998 annually until the balance is zero. PUD staff recalculated the balance left to be amortized by making an adjustment increasing the accumulated amortization thus reducing the rate base by \$147,303 and recommended the continued annual amortization of \$44,998. Mr. Hartline further explained that in May of 2007 at the time of the acquisition of Fort Cobb Fuel Authority by the Company, the previous owner provided figures indicating that as of December 31, 2006 the accumulated depreciation was \$269,986.92. The Company believes the 2006 case, as well as the case prior, set the precedent and that this matter should not be reopened. The Company requests the amount of \$147,303 be returned to the rate base.

Mr. Hartline then explained PUD staff’s adjustment to reduce legal fees associated with acquisitions. Ms. Patel’s testimony filed on December 9, 2011 stated on page 8 that PUD reviewed total legal fees of \$60,311 included in the cost of service for the test year ended March 31, 2010 and determined that \$51,560 are related to system acquisitions and should be capitalized as organizational cost and should therefore be included in the rate base rather than expensed during the test period. Mr. Thompson testified that the PUD staff determined what they believed to be the value of the acquisition and then limited the legal fees associated with the acquisition to 25% of that value and disallowed the remaining legal fees incurred by the Company associated with the acquisitions of the Greenfield and Rimrock properties. Mr. Hartline stated the Company is in agreement with the capitalization of the legal fees associated with the acquisitions but disagreed with the 25% limitation which resulted in a reduction of rate base of \$35,750. Mr. Hartline stated that in 2008 the Company acquired the Rimrock system from CenterPoint energy with a regulatory value of approximately \$189,000. However, the Company paid one dollar (\$1) for the system. He stated that if he understands the argument put forth by PUD Staff, the Company should only be allowed \$0.25 (that is twenty-five cents) in legal fees, i.e. 25% of \$1.00, the purchase price of the system, or if the value of the system is what was previously recognized by the Commission, i.e. \$189,000, legal fees of \$47,250 would be acceptable. First, the issue of legal fees being directly associated with the value of the acquired system does not make sense since the Company should not be penalized for negotiating a favorable purchase price. He explained that the Rimrock acquisition has been a huge success for the Company as well as the rate payer, both Fort Cobb’s and the remaining CenterPoint customers. Even the customers on the Rimrock system, who saw an increase in rates, acknowledge with our reinvestment and engine rental program, we are doing something good for the community. The Company is entitled to and the rate payer is due proper legal counsel and the Company requests the PUD proposed rate base be increased by \$35,750.

Mr. Hartline also indicated that he disagreed with PUD staff’s changing the depreciation rates of the Company. He was concerned with PUD staff not considering the character of the assets in each category of depreciation when the PUD staff compared the depreciation rates of ONG and CenterPoint to those of the Company. Mr. Hartline then discussed the PUD adjustment to depreciation rates for local distribution company (LDC) assets and referred to the attachment to his Rebuttal Testimony filed on July 30, 2012 entitled Adjustments to depreciation expense – Reduction to expenses of \$108,859. He stated that the following depreciation rates are in dispute: Autos & pickups, Trucks, Heavy equipment, Tools & equipment, Office equipment,

Leasehold improvements, and Meters & regulators. He stated that at times, when you look at numbers as percentages it can obscure the true picture. His exhibit reflected the below chart listing the rates in dispute, an example of the equipment, and the PUD proposed life in years.

Autos & pickups	2009 Ford F150 pickup	7 years
Trucks	2006 GMC 3500 Flatbed	7 years
Heavy equipment	2009 Case 580	8 years
Tools & equipment	Hand tools	10 years
Office equipment	Dell Vostro 3555 laptop	8 years
Leasehold improvements	Eakly bathroom reconstruction	30 years
Meters & regulators	American 250 house meter	30 years

He explained as set forth on the Attachment under the section Recommended Life for Certain Classes the meter issue was discussed with the PUD Staff. At that time PUD Staff was recommending 15 years. It is likely that the 30 years presented in the Accounting Exhibit was inadvertently carried down from the line above and this is just a math error that needs to be corrected. With regard to leasehold improvements, toilets in commercial settings do not last thirty-years. The reality is you're not going to go more than fifteen-years between repainting and new carpeting, moving offices and such. An eight-year old computer will not operate on our network, not eight-years from now and certainly not today. Technology is changing so fast manufacturers don't design electronics to last that long. You can't replace your cell phone battery because the phone is obsolete before the battery won't charge. Three-years is the correct life for office equipment especially in the harsh environment of rural Oklahoma. For tools and equipment, like PUD Staff, Mr. Hartline stated that even though tools should last forever in a commercial environment, tools are lost, stolen, broken, or otherwise used up in fairly short order. Mr. Hartline testified that three-years is the correct life for this category of asset. He testified that for Heavy equipment and Trucks the Company agrees with the life for new equipment, but not for the used equipment acquired in acquisitions or otherwise. He explained it is not responsible to rely on a pickup with over 200,000 miles to service a gas system, particularly in the absence of a motor pool and given the geographic spread, harsh, and potentially dangerous environment of rural Oklahoma. He stated that the depreciable life for pickups must stay at five-years. He then testified that to use ONG or CenterPoint's rates for meters is not appropriate for Fort Cobb. Fort Cobb has conventional diaphragm meters that must be taken out of service at least every ten years in accordance with the Commission's rules on testing of meters. Once taken out of service the meter then has to be rebuilt and put in inventory for future use. It is more appropriate to depreciate the Company meters over ten years rather than the 30 years recommended by the PUD staff.

Mr. Hartline then discussed the adjustments PUD staff made to the operating income statement to eliminate certain expenses. Mr. Hartline identified Bad Debt expense as a disputed issue and stated that during the PUD staff's review there seemed to be a significant misunderstanding regarding this issue. As set forth in the testimony of Mr. Seyedoff, a three-year average was used. However, that average does not reflect the changes and ongoing economic situation that occurred during the test period and subsequent period. Mr. Hartline

stated that while Fort Cobb wishes it were not the case and notwithstanding the Company’s taking every reasonable effort to minimize bad debt, the reality is the higher rate of bad debt is unfortunately, and likely for some time to come, the reality. Mr. Hartline testified that the Company has and continues to use a consistent direct write-off method and the bad debt expense has increased since 2009 and has remained persistently higher due to the recession and ongoing weak economy in addition to the more transient nature of the customers. He stated the actual bad debt expense of \$93,276 should be allowed by not accepting the PUD staff’s \$21,374 expense adjustment.

Mr. Hartline then discussed the issue of not being located in and travel to Oklahoma. He explained that in their testimony, PUD Staff makes two assertions: 1) the headquarters of the Company being located outside Oklahoma does not benefit the ratepayer; 2) the travel of the executives to Oklahoma does not benefit the ratepayer. Neither assertion is true nor are they supported by the facts. Regarding the issue of Oklahoma Headquarters Location – Between May 31, 2007 and March 31, 2009 the Company acquired the assets of eight utilities serving 23 sub-systems in Oklahoma. Not a single individual or entity within Oklahoma offered to purchase those systems except for Fort Cobb; one of those systems had been on the market since the mid 1990’s. Clearly there are plenty of individuals and entities with capital in Oklahoma that could have offered to purchase these, but did not. If the risk/return relationship is correct then why is no Oklahoma based investment forthcoming? Given that there is no Oklahoma based capital being allocated to micro utilities then it is clear that our being located outside of Oklahoma is good for the rate payers. This logic is confirmed by our making the acquisitions and still requesting the Commission to lower our rates that were approved by the Commission based on the operating assets prior to the acquisitions. Moreover, not only is our location outside Oklahoma good for our customers, it is good for all the citizens of Oklahoma. Basic economic theory holds that new capital coming in from outside the region is good for the growth of an area.

Mr. Hartline then addressed travel to Oklahoma because PUD Staff asserts that only 18 of the 28 annual trips to Oklahoma benefit the ratepayer. He testified that there is no factual support for this assertion. The previous ownership of the original Fort Cobb system had their headquarters in Houston and purportedly made an average of 1 trip per year to Oklahoma and each of the rate cases during their ownership resulted in rate increases. The Company has demonstrated that by the executives making 28 trips per year they have been able to substantially improve the business and lower rates to consumers. It is essential that the Company executives make these trips to Oklahoma to visit with our employees face to face and interact with our customers. The Company argued that the PUD Staff has not shown any factual bases that the location of the Company headquarters not being in Oklahoma is a detriment to ratepayers nor that the cost of moving the headquarters to Oklahoma would result in lower costs. Mr. Hartline testified that the Commission finds there is no detriment to the ratepayer by the Company headquarters not being located in Oklahoma. Additionally, the Company requests that the Commission affirm that the State of Oklahoma welcomes investment from entities located outside the State. Mr. Hartline further testified that there is a dispute over the expenses incurred for travel and company use of personal vehicle. He expressed concern that there appears to be some confusion over the actual amounts requested during the test year. He testified that the Company provided detail of the \$123,819 dollars of expense reimbursement requested. He

stated that of that amount the PUD staff is recommending approval of \$36,000 for rent expense, \$2400 for cellular phone expense, \$10,586 for other expenses and Ms. Fisher made a calculation and allowed \$30,000 as travel expense. Ms. Fisher disallowed ten trips that were necessary for proper Company operations during the test period. He explained that the document titled Adjustments to Travel; dated June 22, 2011 the Company established that the executives make an average of 28 trips to Oklahoma covering 112 days and 84 nights. Certain transportation charges to Oklahoma are dealt with in the testimony of Ms. Fisher through an allowance of \$30,000. Using the IRS per diem rates of \$150 for lodging and \$60 for vehicle expense and \$800 for airfare per trip the travel allowance is an additional \$14,280. This means that PUD staff's miscellaneous expense adjustment would be \$40,570 rather than the \$65,233 which represents the \$95,233 less the \$30,000 travel allowance.

Mr. Hartline then testified to the expenses that were for reimbursement of purchases made on behalf of the Company on the credit card of an executive. For example, Mr. Hartline purchased the furniture for the Eakly office at Stow's in Oklahoma City on his personal credit. During the test case year the Company did not have corporate credit cards. He explained that at the onsite visit supervised by Mr. Mitchell, PUD Staff reviewed original receipts and took copies for their files and it seems that PUD Staff has arbitrarily dismissed all these reimbursements and the Company requests the reimbursement of \$27,819 be allowed.

Mr. Hartline then rebutted the testimony of Mr. Robert Thompson. Mr. Hartline stated that it appeared to him that Mr. Thompson may not fully understand Fort Cobb's business methods and would like the Company to structure themselves like a large utility such as ONG it appears as though Staff that type of structure will not work for a small rural utility. He explained that Fort Cobb is a collection of 24 micro utility systems serving rural Oklahoma. In the 2005 test case year for cause number 200600096 the Fort Cobb Fuel Authority system had 1,550 customers with 1,979 meters while today that same system has 1,027 customers with 1,328 meters, a loss of over 500 customers, more than a 33% decline. He explained that had it not been for the principles and the actions undertaken by the Company, this case would be discussing more than a 50% increase in rates not the over 10% reduction from which these customers already benefit. He stated that Fort Cobb's customers have and will continue to benefit from decisions made by their management team, if we are allowed the revenue streams we have requested to the benefit of rural America that Fort Cobb believes it has a place and something to contribute.

Mr. Hartline then discussed Hearing Exhibit #1. Mr. Hartline testified that Hearing Exhibit #1 reflects the Company's annualized revenue requirement after giving consideration to PUD staff's adjustments as reflected in their filed testimony and exhibits and after further discussions with PUD staff regarding their adjustments. He testified that notwithstanding the Company's request as contained in its minimum filing package and his testimony filed on September 30, 2010 and his Rebuttal Testimony filed on July 30, 2012 and his Supplemental Testimony filed on August 31, 2012 that supported a higher revenue requirement the Company had rerun the revenue requirement calculation using PUD staff's excel worksheets and beginning with PUD staff's filed position made adjustments reflecting issues the Company cannot agree with. The adjustments the Company believes are appropriate and which were made to PUD staff's filed position as reflecting on Hearing Exhibit #1 results in the Company now requesting

an annual revenue requirement of \$3,440,608 based on a rate base of \$5,386,499 using the rate of return used by PUD staff. Mr. Hartline further requested that the actual rate case expenses incurred to prosecute this cause be added to the \$3,440,608. The ALJ requested that the Company prepare and file a late filed Exhibit showing the actual rate case expenses incurred. The PUD staff and the Attorney General’s office agreed the actual rate case expenses, amortized over a reasonable time, be allowed for recovery by the Company.

## **PUBLIC UTILITY DIVISION**

### **Nicholas Fiegel**

The purpose of Mr. Fiegel’s testimony is to discuss PUD’s recommendations associated with Fort Cobb Fuel Authority, L.L.C.’s (“Fort Cobb,” “Company,” or “Applicant”) Return on Equity (“ROE”), Long-Term Debt Cost, Rate of Return (“ROR”), and capital structure.

PUD reviewed the Company’s application, the pre-filed testimony of the Applicant’s witness and issued and reviewed data requests and the subsequent responses provided by Fort Cobb. PUD participated in discussions with Company personnel and performed independent research on the Company’s assertions for reasonableness in order to determine a recommended ROE and ROR.

PUD used the following analyses in preparing its recommendation for common equity: multiple Discounted Cash Flow (“DCF”) methods, multiple Capital Asset Pricing Model (“CAPM”) methods, the Historical Risk Premium methodology, and a comparable earnings approach. PUD also reviewed the state of the economy and financial markets at the time. PUD compiled a proxy group of similar companies to perform the analyses. The mean results of the DCF, CAPM, historical risk premium, and comparable earnings methods established a recommended ROE for Fort Cobb of 11.23 percent, which was lower than the 15.81 percent Fort Cobb requested in its application.

PUD recommended using the high end of its recommended range to compensate for the additional risk, PUD believes, the Company faces because of its small size and the obstacles associated to this particular issue. For example, Fort Cobb’s owners are required to provide personal guarantees on fuel and other contracts. To compensate for this added risk, PUD recommended providing a 132 basis point adder to the Company’s reported cost of long-term debt.

PUD recommended a long-term debt cost of 7.43 percent, which is comprised of the 6.11 percent cost of debt using loan information provided by the Applicant and the 132 basis point adder.

PUD recommended using the capital structure as Fort Cobb presented in its application, which is 64.95 percent long-term debt and 35.05 percent equity. PUD believes it has adequately compensated the owners for the risk factors because of the various adjustments to the traditional ROE and debt costs used by PUD. Using Fort Cobb’s reported capital structure, PUD’s and the



modified debt cost, PUD determined the Company’s Weighted Average Cost of Capital (“WACC”). PUD’s recommended ROE produces a recommended ROR of 8.76 percent.

PUD is recommending an ROE of 11.23 percent and a corresponding ROR of 8.76 percent. This should allow Fort Cobb the opportunity to earn a return that balances the requirements of the utility and its ratepayers.

**George Kiser**

Mr. Kiser was assigned as part of a team reviewing Plant in Service related issues, CWIP, Depreciation rates/models and all associated issues with Accumulated Depreciation, and all issues relating to engineering. Mr. Kiser reviewed the Plant Acquisition Adjustment for the prior year, to correct that year’s acquisition premium for LeAnn Gas. The Commission approved Fort Cobb’s acquisition of LeAnn in Cause No. PUD 200600096. PUD reviewed prior cases for the prior acquisition premium after on site visits at Fort Cobb and discussions with the Company. See Staff attachment GK-1 to Staff witness George Kiser’s testimony and reflected in adjustments in schedules C, D, and I.

PUD recommended that the acquisition adjustment premium be adjusted out of the rate base in the LeAnn Gas, Cause No. PUD 200000248, filed November 29, 2000. Order No. 447875 dated December 28, 2000, appears to hold with PUD’s recommendation. But as Mr. Kiser now reads the order, it appears to be silent on the acquisition premium issue as well as the stipulation filed December 21, 2000.

The acquisition premium of \$899,956 next appeared in Cause No. PUD 200600096 on Schedule C-1, with a test year of December 31, 2005, for application for a change or modifications in the rates, charges and tariffs of Fort Cobb Fuel Authority, L.L.C. Order No. 532456 was signed November 21, 2006, with the acquisition premium included in rate base. The Company has amortized using the twenty year life as suggested in PUD testimony filed in Cause No. PUD 200000248, if it were to be allowed.

PUD prepared an updated schedule showing the original amount to be amortized from November 1994, and the monthly amortization through March 2010 in attachment to PUD testimony as GK-1. The accumulated amortization through March 2010 per PUD figures is \$693,716.09, leaving a balance of \$206,239.91 to be amortized.

Another area Mr. Kiser reviewed was the Lost and Unaccounted for Gas (“LUFG”). To remove the 13 months average of Line Loss Balances included by Applicant in Rate Base, Applicant’s Work Paper B-5-3 \$387,399. This flows to Applicant’s Exhibit B-2, line 11. PUD does not allow this adjustment in rate base, as it is part of the LUFG, and is handled separately in a fuel hearing. These costs were addressed in the LUFG Cause No. PUD 201000097.

**Robert Thompson**

Mr. Thompson reviewed and oversaw the field investigation related to this filing, supervised the preparation of schedules, work papers, the PUD Revenue Requirement Exhibit,

and accounting issue testimony to support the Energy and Water Department (“EAW”) quantification of Fort Cobb's current revenue requirement based upon a test year ended March 31, 2010. The PUD Accounting Exhibit was prepared under Mr. Thompson’s supervision based on examination of the books and records of Fort Cobb. The areas covered are detailed below:

Accounting and auditing issues: PUD is proposing that Fort Cobb allow another of the Company PUD to work with PUD auditors to allow the viewing of information onsite not be limited to the time availability of Mr. Hartline. The valuing and inclusion in rates of municipal systems into a regulated utility and affiliate transactions from Navitas Utility Corporation need to be supported by original source documents to support the costs flowing through to the Fort Cobb affiliate.

Plant in Service: PUD is proposing to remove all aircraft and related expenses from the rate base and expenses. PUD’s adjustment will decrease plant in service by (\$1,546,021).

Accumulated Depreciation: PUD is proposing to adjust accumulated depreciation included in rate base. PUD’s adjustment will decrease plant in service by (\$204,420).

Cash Working Capital: PUD proposes an adjustment to the cash working capital (“CWC”), which includes all of PUD’s proposed changes to those accounts included within the cash working capital calculation. PUD does not agree with the Company’s cash working capital methodology. PUD’s adjustment will decrease cash working capital included in rate base by (\$365,171).

Accumulated Deferred Income Tax: PUD proposes an adjustment to update accumulated deferred income tax. PUD’s adjustment will increase accumulated deferred income tax included in rate base by \$91,144.

Gas and transportation cost and Revenues and weather normalization related to gas cost and revenues: PUD is proposing to remove all gas costs and revenues related to gas costs, as well as weather normalization related to gas costs and revenues. These costs are included and recovered through the Company’s Purchased Gas Adjustment (“PGA”) clause. These adjustments will reduce the revenue requirement by \$26,336.

Depreciation and Amortization Expense: PUD is proposing to adjust the depreciation and amortization expense and depreciation lives related to the plant in service. This adjustment will reduce the revenue requirement by \$135,582.

Interest Synchronization: PUD is proposing an adjustment to the interest expense within the income tax calculation to reflect changes to the rate of return and rate base. Interest synchronization is a method that provides an interest expense deduction for regulatory income tax purposes equal to the ratepayer’s contribution to Fort Cobb for interest expense coverage. PUD’s adjustment for interest synchronization will increase the net income before income tax by (\$286,362).

**Current Tax Expense:** PUD is proposing that Fort Cobb only be allowed to collect from Oklahoma consumers the Oklahoma income tax rate and not the California income tax rate. PUD is proposing an adjustment to current income taxes to reflect PUD’s adjustments to the operating income statement, including the revenue excess, resulting in a net decrease to Fort Cobb’s operating income of (\$219,184).

**Sharon Fisher**

PUD reviewed Fort Cobb’s application and supplemental filing package to determine if the revenue requirement, proposed adjustments, and the rate design for Fort Cobb met the fair, just and reasonable test, pursuant to Commission rules.

PUD’s recommendation on the purchase of an aircraft that was included in Fort Cobb’s plant in service, is that this expenditure is not a reasonable expense to be passed on to the rate payers because an aircraft does not aid the Company in providing safe and reliable service. While PUD does not believe that an aircraft is reasonable to include in Fort Cobb’s plant in service, PUD acknowledges that Fort Cobb’s employees may have business related travel expenses. With this in mind, PUD proposed that the Company establish guidelines related to the type of travel most commonly experienced by Fort Cobb employees, both executive level and staff level, and how the Company will reasonably reimburse travel expenses.

The annual travel budget recommendation is PUD Adjustment H-6 for \$30,000. PUD understands and is aware that circumstances may change within the time between rate cases, which is why we offered suggestions as to the development of a travel policy and the establishment of guidelines that will provide documentation in support of whatever travel is deemed necessary to operate the Company prudently.

**Travel Budget**

Quantity	Travel Expense	Costs	Total
18	Air Fare	\$805.00 each	\$14,500
18	4-days per diem	150 per day	\$10,800
18	4-days Vehicle rental	\$ 65.00 per day	\$ 4,700
		Total	\$30,000

PUD strongly recommends the use of Federal Energy Regulatory Commission (“FERC”) approved accounting methods and Generally Accepted Accounting Principles (“GAAP”) accounting principles for use by any and all regulated utilities in maintaining records for expenses and ratemaking test year accounting. PUD’s audit process requires the auditor to track and trace expenses to the amounts recorded by invoice, for ratemaking purposes. The process makes it extremely important for PUD to track expenses based on invoiced items that contain a good description of the resource, quantity, costs, original provider and the date of purchase. Affiliate transactions should also be clearly transparent by the same standard. In some instances, the records that were received did not contain adequate descriptions of the resource or services provided to the Company. In some cases, the invoices that were provided were not, the original invoices from the original vendor; they were invoices from the Parent or Holding Company.

Commission Rules, Chapter 70, discuss with great detail, how affiliate information and transactions should be included in rate case filings. The original invoices should be available to PUD auditors, because the item or service should be provided to the regulated utility at the least cost.

PUD recommends that the Commission accept the adjustments to Fort Cobb’s revenue requirement and expenses as presented in the PUD Accounting Exhibit prepared by the Manager of Accounting, Mr. Robert Thompson, CPA.

**Tonya Hinex-Ford**

Ms. Hinex-Ford is employed by PUD as a public utility rate analyst IV, in the Energy and Water Group. She reviewed the areas of Advertising, Dues, Memberships and Contributions, Employee Insurance Costs, and Legislative Advocacy, as filed in the application of Fort Cobb. Based upon Ms. Hinex-Ford’s review, PUD accepts the areas of adjustment that Fort Cobb presented in its application for the following areas: Advertising, Dues and Donations, Memberships and Contributions, Employee Insurance Costs and Legislative Advocacy. PUD believes that the adjustments presented in Fort Cobb’s application in these areas contained minor adjustments; however, PUD will not recommend any further adjustments.

**Javad Seyedoff**

Mr. Seyedoff pre-filed responsive testimony on December 09, 2011, in this Cause in which he reviewed the following areas: ad valorem taxes, prepayments, customer deposits, interest on the customer deposits, customer advances, bad debt expenses, current rate case expenses, regulatory expenses, lease and rent expenses, litigations, outside services, large invoices, regulatory assets, regulatory liabilities, and miscellaneous general expenses.

Prepayments: Fort Cobb added \$389,489 to prepayments for the test year period. According to Schedule 2, Section B, Line 8, total company books beginning balance was \$40,322, plus a pro forma adjustment of \$145,772 for the LeAnn Division. PUD requested supporting documentation because PUD is allowing insurance premiums, Prepaid OCC Fees, and Prepaid OCC Pipeline Fees. PUD questioned cost in excess of billing (“CIEB”) balances for prepaid gas calculation for the test year of \$39,751.52 for Fort Cobb and \$71,834.66 for LeAnn. PUD used the Company’s response to PUDJS-02 and reported activities between March 2009 to April 2010 (on pages 85 through 88 of the application) to calculate the 13 month average. PUD reviewed the sample documents for all the accounts, instead of relying on the 13 month average. PUD concluded that it would be appropriate to remove the CIEB balances of \$111,586 for the test year, \$39,751.52 for Fort Cobb and \$71,834.66 for LeAnn. Adjustment PUDJS B-4 reduces the prepayment for the test year by \$111,586.

Bad Debt Expenses: PUD did not recommend the inclusion of the write-offs, as they appeared to be a non-recurring item associated with a special payment program on the LeAnn gas system. PUD used a three year average of bad debt to revenue for 2008, 2009, and 2010 and applied that percentage to gross revenue for the test year. The calculated percentage is 1.034. This calculation represents an annualized bad debt expense level for PUD’s recommendation.

Adjustment PUDJS H-1 reduces the bad debt expense for the test year by \$21,374. PUD recommends that the Company have a written policy and develop a more detailed process to attempt to collect and reduce bad debts.

Current Rate Case Expenses: The Company did not suggest an adjustment; however, the Company estimated its current rate case expense in response to PUDJS- 7, question 3, at approximately \$95,000. PUD is recommending an amortization of 24 month as it was suggested in similar rate cases and PUD is recommending Fort Cobb come in for a rate case in two years. Fort Cobb estimated the total amount of expenses for this instant cause at \$97,000 (in response to PUD JS-13) which includes \$50,000 for in-house labor (in response to PUD JS-07). PUD does not agree with the inclusion of in-house labor in this cause, as it should already be accounted for in the payroll expenses. PUD Adjustment H-4 will result in an increase of \$23,500, per year for current rate case expenses. An estimated recovery of \$47,000 amortized over a two year period is consistent with similar utilities historical recovery.

### **Karen Forbes**

Ms. Forbes’ testimony discusses PUD’s recommendations associated with Fort Cobb’s revenue adjustments in the Company’s application for a change or modification in rates, charges and tariffs for the following areas: foregone revenues, unbilled revenues and weather normalization.

PUD recommends PUD Adjustment H-11 for \$754,549 to reverse the Company’s proposed foregone revenues for the test year. The proposed foregone revenue is unsupported, artificial and is not reflective of actual revenue experiences for the purposes of rate design revenue

PUD’s Adjustment No. H-14 for \$226,000 removes unbilled revenues from the Company’s test year revenue total. PUD recommends this adjustment to be removed from revenues for the purpose of computing actual test year revenues. There should not be any revenues related to fuel included in the Company’s revenue test year total. This adjustment has been proposed and approved by this Commission in prior rate causes.

### **Kiran Patel**

Ms. Patel is a regulatory analyst in PUD. She reviewed the Company’s adjustments to the payroll expenses, payroll taxes, outside services/Attorney fees, miscellaneous taxes, pension and medical expense, non recurring expenses and audit fees. PUD proposed an adjustment to decrease outside services/Attorney fees by \$51,560. Acquisitions legal fees are a part of the organizational cost of acquiring new systems and should therefore be included in rate base as part of the system investment. PUD Witness Bob Thompson addressed the inclusion of these fees in rate base as attorney fees related to organizational costs.

The information provided to substantiate payroll expenses lacked specific allocation of the time spent in acquiring new systems or handling the affairs of other entities. Through our inquiries, PUD found that Company executives and other personnel are involved in the

acquisition of systems in Oklahoma, and other states and thus a portion of the payroll costs should be allocated to those acquisitions.

PUD believes that reasonable time spent in acquisition of new systems, within the Oklahoma market, should be capitalized as part of organizational costs rather than passed through as an expense item. This is consistent with the process used in all other utilities’ rate cases. PUD was not able to make all of these calculations because the Company currently does not maintain sufficient records related to these acquisition issues.

PUD received information that Navitas (Fort Cobb parent company) has other entities but those have not been clearly identified in written responses. PUD has been able to confirm that Navitas has started running operations in Kentucky and Tennessee and these operations are using some of the employees currently being included in the Oklahoma cost of service. PUD also has concerns about time possibly being spent on non-regulated companies without any of the pay being allocated through a clear allocation process.

PUD recommends that the Company keep detailed records in the future to support allocation of all expenses between acquisitions, other regulated affiliates, and non-regulated activities. Also, PUD believes that Fort Cobb will need to better track employee’s time and that there will be a possible need for allocations to other lines of business or service territories in the future.

PUD reviewed total legal fees of \$60,311 included in the cost of service for the test year ending March 31, 2010 and determined that \$51,560 are related to system acquisitions.

### **Fairo Mitchell**

Mr. Mitchell is employed by PUD as the Chief of the Energy and Water Group. Mr. Mitchell presented PUD’s recommendation on office rent, executive vehicles, and associated expenses in California. PUD allowed 100 percent of Fort Cobb’s requested rental expense of \$36,000 for its California office. PUD disallowed executive vehicles, and associated expenses in California because they were undocumented and supported and did not appear to be required for the supply of gas service to Oklahoma ratepayers. Therefore, PUD made an expense adjustment of \$105,819.

### **ATTORNEY GENERAL**

The Attorney General did not present a witness at the hearing on the merits for revenue requirement. However, counsel for the AG fully participated in the hearing, including cross examination of witnesses. In addition, the AG filed his Statement of Position on June 15, 2012.