

ORDINANCE 2005-07

AN ORDINANCE AUTHORIZING THE EXECUTION OF THE INDEPENDENCE COMBINED CYCLE GAS PLANT OWNERSHIP AGREEMENT; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, the City of Osceola, Arkansas (the "City") owns and operates a municipal utility to furnish services for the benefit of the residents, businesses, and others as it has for over 110 years; and

WHEREAS, as requested by the City and authorized by Order No. 11 of Docket No. U-2903 (renumbered as 77-003-U) issued on January 4, 1980 by the Arkansas Public Service Commission, the City acquired a one-half of one percent (0.5%) undivided interest in the Independence Steam Electric Station ("Independence"); and

WHEREAS, Independence must cease burning coal by December 31, 2030, based on an order issued by the United States District Court of the Eastern District of Arkansas; and

WHEREAS, the other municipal owners (Jonesboro City Water and Light, the City of Conway, Arkansas, and the City of West Memphis, Arkansas) and cooperative owner (AECC) of Independence plan to construct a new combined-cycle natural gas plant to be located on excess land at Independence ("Replacement Generator"); and

WHEREAS, the City is authorized under Ark. Code Ann. § 14-202-103(a) to acquire, construct, reconstruct, enlarge, equip, operate, and maintain an interest in a project such as the Replacement Generator, jointly with one (1) or more municipalities, persons, or public utilities; and

WHEREAS, the officers, agents, and employees of the City Water and Light Plant of Jonesboro, West Memphis Utilities, and Conway Corporation have extensively negotiated with other participants to develop an ownership agreement to describe the rights and obligations of the City related to the Replacement Generator; and

WHEREAS, the City finds that the ownership agreement is favorable to the City as it:

- Fully preserves and utilizes the City's legacy development rights;
- Fairly allocates costs and risks of development;
- Supports long-term affordability and stability of utility services; and
- Offers additional opportunities to negotiate ownership of Independence.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OSCEOLA, ARKANSAS, THAT:

Section 1. Nature of Agreement. The City Council acknowledges that the Independence Combined Cycle Gas Plant contemplated by the ownership agreement attached as Exhibit A is a "major utility facility" as defined in Ark. Code Ann. § 14-202-102(8) that is being developed in conjunction with other municipalities and public utilities as described in Ark. Code Ann. § 14-202-103(a). Accordingly, the City hereby exercises its rights and exemptions described in Ark. Code Ann. § 14-202-123 regarding the development of the Independence Combined Cycle Gas Plant and matters related thereto.

Section 2. Independence Combined Cycle Gas Plant Ownership Agreement. The City Council hereby authorizes the Mayor to execute and deliver on behalf of the City of Osceola, Arkansas a document that is substantially similar in form and content to the Independence Combined Cycle Gas Plant Ownership Agreement that is attached hereto as Exhibit A and incorporated herein as if set forth word for word.

Section 3. Attestation and Filing of Agreements. The City Clerk is hereby authorized to execute the Independence Combined Cycle Gas Plant Ownership Agreement for the sole purpose of attesting to the signature and authority of the Mayor. The Independence Combined Cycle Gas Plant Ownership Agreement shall not be publicized but shall be filed in the Office of the City Clerk.

Section 4. Severability. The provisions of this ordinance are declared to be severable, and if any section, phrase or provision shall be declared to be invalid for any reason, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions

Section 5. Conflicts Repealed. All ordinances, resolutions and parts thereof in conflict herewith are hereby repealed to the extent of the conflict.

Section 6. Nature of Ordinance. The City Council hereby finds that this ordinance authorizes the execution of a specific document related to the development of a Combined Cycle Gas Plant. While this ordinance is not of a general or permanent nature, the procedures used by the City Council when adopting this ordinance that reflect those used in the adoption of an ordinance of a general or permanent nature are for convenience only and shall not be used to infer that this ordinance is of a general or permanent nature.

Section 7. Emergency Clause. That the City Council hereby finds that the development of new electric generation assets to replace the Independence Steam Electric Station is a time-consuming process that is critical to the management of energy prices for residents, businesses, and other within the City of Osceola, Arkansas. Therefore, this ordinance being necessary for the immediate protection of the health, safety, and welfare of the citizens of Osceola, Arkansas, an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its passage.

PASSED AND APPROVED this _____ day of December, 2025.

APPROVED: _____

Mayor Joe Harris, Jr.

ATTEST: _____

Jessica Griffin, City Clerk