

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

In the Matter of the Application of the)
Oklahoma Development Finance Authority)
For Approval of Not to Exceed \$800,000,000)
Ratepayer-Backed Bonds (Oklahoma Gas)
And Electric Company), Series 2022)
(Federally Taxable))

No. 120,106

FILED
SUPREME COURT
STATE OF OKLAHOMA

MAR - 1 2022

JOHN D. HADDEN
CLERK

NOTICE OF NON-INTERVENTION OF THE ATTORNEY GENERAL

John M. O'Connor, Attorney General of Oklahoma, hereby submits this Notice of Non-Intervention in compliance with the Order dated February 16, 2022, which directed the Attorney General to file an entry of appearance or advise why he will not intervene in this matter by March 1, 2022. The Attorney General does not intend to intervene in this matter.

The Attorney General advocates for the interests of utility customers in regulatory proceedings before the Oklahoma Corporation Commission ("Commission").¹ Carrying out that role, the Attorney General participated in Cause No. PUD 202100072, where the Commission considered the extraordinary natural gas expenses of Oklahoma Gas and Electric Company ("OGE") giving rise to the request presented in this matter.

The Attorney General consistently supported the usage of securitization throughout the complex litigation steps of Cause No. PUD 202100072. For example, in the initial announcement of his position, he clearly stated the following:

The Attorney General supports the issuance of securitization bonds to support recovery of the prudently incurred costs of OGE related to the February 2021 storm. The lower interest rates of securitization bonds will save customers significant money over a likely term around 20 years.²

¹ 74 O.S. § 18b(A)(21).

² Attorney General's Statement of Position 3, *Okla. Gas & Elec. Co. Costs Arising from the Winter Weather Event of Feb. 2021*, No. PUD 202100072 (Okla. Corp. Comm'n Aug. 27, 2021).

While the Attorney General did not actively support the settlement agreement between OGE and other parties at the hearing on the merits, he did again state clearly in post-hearing briefing that securitization bonds themselves would save customers money.³

At a later oral argument before the Commission, the Attorney General clarified that while he took no position on the settlement agreement between OGE and other parties, a key dispute in that settlement agreement involved the allocation *among* customer groups that affected utility bills in an amount around \$0.10 per month for typical residential customers.⁴ On the other hand, securitization as a concept was expected to save approximately \$1.69 per month for typical residential customers.

Despite his prior involvement in the relevant Commission proceeding, there is no substantial contribution to be made in the present matter. The difficult policy decisions faced by the Commission in Cause No. PUD 202100072 are *not* presented here for the Court's review. Instead, the Court is called upon to review the bonds proposed by the Oklahoma Development Finance Authority to determine their constitutional validity. Counsel for the Authority has ably briefed these questions, and the Attorney General would have nothing substantial to add.

Additionally, the Attorney General has concerns with the procedural delays necessary to accommodate another round of briefing. The value of securitization as a concept is to reduce the carrying cost on amounts that would otherwise need to be repaid, regardless of the use of securitization.⁵ The size of that value is directly tied to the interest rates available in the capital

³ See generally Attorney General's Proposed Findings of Fact and Conclusions of Law, *Okla. Gas & Elec. Co. Costs Arising from the Winter Weather Event of Feb. 2021*, No. PUD 202100072 (Okla. Corp. Comm'n Oct. 25, 2021).

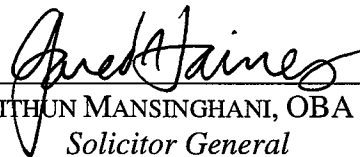
⁴ The Attorney General is not aware that a transcript has been prepared for the Commission meeting on November 30, 2021, at 9:30am, but a video recording is listed at the Commission's meetings archives at <https://oklahoma.gov/occ/public-meetings/meeting-archives.html>.

⁵ See 74 O.S. § 9073(F) (requiring that amounts securitized "would otherwise be recoverable from customers as fair, just and reasonable expenses and prudently incurred").

markets. Over the last six months, 30-year mortgage rates have risen over 1 percent,⁶ while the yield on 10-year U.S. Treasury Securities has increased by nearly three quarters of 1 percent.⁷ Further, the Federal Reserve is widely expected to announce increases in short-term interest rates in the coming months.⁸ In a rising interest rate environment, expeditious review stands to benefit customers to ensure securitization bonds or other financing measures are not eventually issued at higher interest rates.

For the reasons explained above, the Attorney General does not intend to intervene in this proceeding.

Respectfully submitted,


MITHUN MANSINGHANI, OBA #32453
Solicitor General

JARED B. HAINES, OBA #32002
Deputy Attorney General
Utility Regulation Unit

OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA
313 N.E. 21st Street
Oklahoma City, OK 73105
Direct: (405) 522-1961
Facsimile: (405) 522-0608
jared.haines@oag.ok.gov
mithun.mansinghani@oag.ok.gov

⁶ 30-Year Fixed Rate Mortgage Average in the United States, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/MORTGAGE30US> (last visited on Feb. 22, 2022).

⁷ Market Yield on U.S. Treasury Securities at 10-Year Constant Maturity, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/DGS10> (last visited on Feb. 22, 2022).

⁸ Christopher Rugaber, Fed plans to raise rates starting in March to cool inflation, AP News, Jan. 26, 2022, <https://bit.ly/3v7pO3x>.

CERTIFICATE OF SERVICE

On this 1st day of March, 2022, a true and correct copy of the above and foregoing *Attorney General's Notice of Non-Intervention* was sent via first class U.S. mail, postage prepaid to the following interested parties:

Jered T. Davidson
The Public Finance Law Group PLLC
5657 N. Classen Blvd., Ste. 100
Oklahoma City, OK 73118

Barbara S. Gallivan
1122 NW 55th St.
Oklahoma City, OK 73118

Michael D. Reynolds
2609 SW 107th St.
Oklahoma City, OK 73170

Roy Diehl
1204 NW 40th St.
Oklahoma City, OK 73118

Deborah S. Shinn
10225 Hawthorn Dr.
Oklahoma City, OK 73120

Maureen Harvey
15263 Pheasant Run
Choctaw, OK 73020

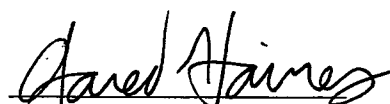
Clare Auwarter
2412 NW 55th Pl.
Oklahoma City, OK 73112

Suzanne Broadbent
3625 N. McKinley Ave.
Oklahoma City, OK 73118

Steven Goldman
10216 Major Ave.
The Village, OK 73120

Stephen A. Melsh
10225 Hawthorn Dr.
Oklahoma City, OK 73120

Laura L. Rice
1206 NW 40th St.
Oklahoma City, OK 73118


Jared B. Haines
Deputy Attorney General