

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

MICHAEL D. REYNOLDS, as)
Resident taxpayer and voter of the State of)
Oklahoma,)
)
Petitioner,)
)
v.)
)
THE OKLAHOMA DEVELOPMENT)
FINANCE AUTHORITY, a body)
Corporate and politic of the State of Oklahoma,)
)
Respondent.)

No. 120,157

FILED
SUPREME COURT
STATE OF OKLAHOMA
MAR 15 2022
JOHN D. HADDEN
CLERK

NOTICE OF NON-INTERVENTION OF THE ATTORNEY GENERAL

John O'Connor, the Attorney General of Oklahoma, hereby submits this Notice of Non-Intervention in compliance with the Order dated February 28, 2022, which directed the Attorney General to file an entry of appearance or advise why he will not intervene in this matter by March 15, 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 has participated in several proceedings before the Commission, including Cause No. PUD 202100072, where the Commission considered the extraordinary natural gas expenses of Oklahoma Gas and Electric Company ("OGE").

The Attorney General consistently supported the usage of securitization throughout the complex litigation steps of Cause No. PUD 202100072 and in other similar proceedings involving Oklahoma Natural Gas Company, Public Service Company of Oklahoma, and CenterPoint Energy

¹ 74 O.S. § 18b(A)(21).

Resource Corporation. For example, in the initial announcement of his position in OGE's case, 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

Despite his prior involvement in the relevant Commission proceedings, there is no substantial contribution to be made in the present matter. The difficult policy decisions faced by the Commission are *not* presented here for the Court's review. Instead, the only issues presented in this case are the constitutional validity of statutes authorizing the creation of securitization bonds. Counsel for the Oklahoma Development Finance Authority, which is itself an instrumentality of the State of Oklahoma itself, has ably briefed these questions. The Attorney General would have nothing substantial to add.

Additionally, the Attorney General has concerns with the procedural delays necessary to accommodate additional 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.³ The size of that value is directly tied to the interest rates available in the capital markets. Over the last six months, 30-year mortgage rates have risen over 1 percent,⁴ while the yield on 10-year U.S. Treasury Securities has increased by nearly three quarters of 1 percent.⁵ Further, the Federal Reserve is widely expected to announce increases in short-term interest rates in the coming

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).

³ 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").

⁴ 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 Mar. 14, 2022).

⁵ 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 Mar. 14, 2022).

months.⁶ 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,



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⁶ 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 15th day of March, 2022, a true and correct copy of the above and foregoing *Notice of Non-Intervention of the Attorney General* was sent via first class U.S. mail, postage prepaid to the following interested parties:

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