SUPREME COURT OF OKLAHOMA

In the Matter of the Application of the Oklahoma Development Finance Authority for Approval of Not to Exceed $725,000,000 Ratepayer-Backed Bonds (Public Service Company of Oklahoma), Series 2022 (Federally Taxable)

2022 OK 48 · No. 120275 · Decided May 24, 2022

SUMMARY

The Oklahoma Supreme Court assumed original jurisdiction over the Oklahoma Development Finance Authority's application to issue up to $725 million in ratepayer-backed bonds to finance Public Service Company of Oklahoma's February 2021 winter-storm fuel costs. The Court held that the bonds were properly authorized under the February 2021 Regulated Utility Consumer Protection Act and were constitutional, approving the proposed bond issue. Justice Rowe concurred in the result and discussed concerns about the scope and consequences of the bond-approval proceedings.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Per curiam; Chief Justice Darby; Vice Chief Justice Kane; Justice Kauger; Justice Winchester; Justice Edmondson; Justice Combs; Justice Gurich; Justice Rowe
JURISDICTION	Oklahoma
DECIDED	May 24, 2022
DOCKET	120275
DISPOSITION	approved
PROCEDURAL POSTURE	Original proceeding in which the Oklahoma Development Finance Authority requested that the Supreme Court of Oklahoma assume original jurisdiction and approve the issuance of ratepayer-backed bonds.
STANDARD OF REVIEW	The Court examines whether the proposed bonds facially violate the law. In the absence of protestants, the Court limits its review to facial legal validity and the authority presented in the application.
PRECEDENTIAL VALUE	Published Oklahoma Supreme Court opinion; precedential under Oklahoma law.

PARTIES	Oklahoma Development Finance Authority

TOPICS

appellate jurisdiction · appellate procedure · municipal finance · public utilities · constitutional law

PRACTICE AREAS

appellate procedure · constitutional law · administrative law · municipal finance · public utilities

QUESTIONS PRESENTED

1. Whether the Oklahoma Supreme Court should assume original jurisdiction over the Oklahoma Development Finance Authority's application to approve ratepayer-backed bonds.
2. Whether the proposed ratepayer-backed bonds were properly authorized under the February 2021 Regulated Utility Consumer Protection Act.
3. Whether the proposed ratepayer-backed bonds were constitutional.

HOLDINGS

1. The Supreme Court of Oklahoma assumed exclusive original jurisdiction over the Oklahoma Development Finance Authority's application.
2. The proposed ratepayer-backed bonds were properly authorized under the February 2021 Regulated Utility Consumer Protection Act.
3. The proposed ratepayer-backed bonds were constitutional.

KEY QUOTATIONS

> *"We assume original jurisdiction and hold the ratepayer-backed bonds were properly authorized under the Act and are constitutional."* (¶ 0)

> *"ORIGINAL JURISDICTION ASSUMED; PROPOSED BOND ISSUE APPROVED."* (¶ 13)

> *"This Court may not--based on its perception of how the State should conduct its business dealings--direct legislative decision-making."* (¶ 12)

FACTUAL BACKGROUND

Record cold temperatures and extraordinary natural-gas demand during Oklahoma's February 2021 winter weather event caused Public Service Company of Oklahoma to incur approximately $675.2 million in fuel costs. The Oklahoma Legislature enacted the February 2021 Regulated Utility Consumer Protection Act to permit securitization of prudently incurred utility costs, allowing recovery through ratepayer-backed bonds and a monthly charge. The Oklahoma Corporation Commission approved the costs and financing structure, and the Oklahoma Development Finance Authority sought Supreme Court approval to issue bonds not exceeding $725 million.

PROCEDURAL HISTORY

Public Service Company of Oklahoma applied to the Oklahoma Corporation Commission for approval of fuel costs incurred during the February 2021 winter weather event. Following settlement negotiations and a hearing before an administrative law judge, the Commission issued a Final Financing Order approving approximately $688 million in fuel and financing costs for securitization. No party appealed that order. The Oklahoma Development Finance Authority then applied directly to the Supreme Court of Oklahoma for approval of bonds not exceeding $725 million, and no protestants responded.

DISPOSITION

approved

CASES CITED

- In re Application of Okla. Turnpike Auth., 2018 OK 88, 431 P.3d 59
- In re Application of Okla. Dev. Fin. Auth. for Approval of Not to Exceed $800,000,000 Ratepayer-Backed Bonds (Okla. Gas & Elec. Co.), 2022 OK 41
- In re Application of Okla. Capitol Improvement Auth., 1998 OK 25, 958 P.2d 759
- In re Application of Okla. Capitol Improvement Auth. for Approval of $200,000,000 State Highways Capital Improvement Notes, 2022 OK 31