

SUPREME COURT OF OKLAHOMA

Gann v. State of Oklahoma

2026 OK 24 · No. 122861 · Decided April 21, 2026

SUMMARY

The Oklahoma Supreme Court affirmed an Oklahoma Corporation Commission order approving modified rates for Public Service Company of Oklahoma. The Court held that the appellant's arguments concerning an audit, commissioner participation, and collateral attacks on earlier orders were not raised and exhausted before the Commission, and that the collateral attack on the Winter Storm Cost charge was barred by statute.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Jett, J.; Rowe, C.J.; Winchester, J.; Edmondson, J.; Combs, J.; Gurich, J.; Darby, J.; Kane, J.
JURISDICTION	Supreme Court of Oklahoma
DECIDED	April 21, 2026
DOCKET	122861
DISPOSITION	affirmed
PROCEDURAL POSTURE	Tom Gann appealed the Oklahoma Corporation Commission's final order approving a settlement agreement and stipulated rates, charges, and tariffs in a public utility ratemaking proceeding.
STANDARD OF REVIEW	The Oklahoma Supreme Court exercises judicial review of appealable Corporation Commission orders and will not decide issues raised for the first time on appeal because they were not presented to and exhausted before the Commission.
PRECEDENTIAL VALUE	published opinion status identified in source metadata, but opinion text states that it has not been released for publication and remains subject to revision or withdrawal
PARTIES	Tom Gann v. State of Oklahoma, ex rel. Oklahoma Corporation Commission, Public Service Company of Oklahoma, Oklahoma Industrial Energy Consumers

TOPICS

exhaustion of remedies

judicial review of agency action

appellate procedure

administrative law

statutory interpretation

PRACTICE AREAS

administrative law

public utility regulation

appellate procedure

constitutional law

statutory interpretation

QUESTIONS PRESENTED

1. Whether Gann could obtain appellate review of his challenge to PSO's compliance with the audit requirement in 74 O.S. § 9078 when the issue was not raised and exhausted before the Corporation Commission.
2. Whether Gann could challenge Commissioner Hiatt's participation in the ratemaking proceeding when no motion to disqualify Hiatt was made before the Commission.
3. Whether Gann could collaterally attack prior Corporation Commission orders and the validity of the Winter Storm Cost charge after the underlying issues were not raised before the Commission and the bonds had been approved.
4. Whether Gann had standing to appeal the Corporation Commission's ratemaking order.

HOLDINGS

1. Gann had standing to appeal because, although he was not a party to the Corporation Commission proceeding, he was an aggrieved person whose pecuniary interest was directly and injuriously affected by the ratemaking order.
2. Issues involving Corporation Commission ratemaking must be presented to and decided by the Commission in the first instance; issues not raised and exhausted before the Commission will not be considered for the first time on appeal.
3. Gann could not challenge PSO's alleged failure to provide sufficient evidence of compliance with 74 O.S. § 9078 because the challenge was not raised and exhausted before the Corporation Commission.
4. Gann could not raise for the first time on appeal his contention that Commissioner Hiatt should have been disqualified because no party moved to disqualify Hiatt before the Commission.
5. Gann's collateral attack on prior Corporation Commission orders and the Winter Storm Cost charge failed because the issue was not raised and exhausted before the Commission, he did not show that the order on direct appeal relied on the prior orders, and 74 O.S. § 9079 bars a collateral attack on the validity of the approved bonds and pledged revenues.

KEY QUOTATIONS

“Orderly procedure and good administration require that objections available in proceedings . . . be made while [the Commission] has an opportunity for reconsideration and correction at the time appropriate under its practice.” (¶ 23)

“The decision of the Court shall be a judicial determination of the validity of the bonds, shall be conclusive as to the Authority, the state, its officers, agents and instrumentalities, and all other persons, and thereafter the bonds so approved and the revenues pledged to their payment shall be incontestable in any court in this state.” (¶ 36)

FACTUAL BACKGROUND

PSO sought approval to modify its utility rates in a proceeding subject to the February 2021 Regulated Utility Consumer Protection Act because PSO had issued ratepayer-backed bonds for winter-storm costs. Evidence concerning the statutory audit required by 74 O.S. § 9078 was presented at the Commission hearing, but Gann did not submit responsive evidence, participate timely in the evidentiary process, object to the administrative law judge's report, seek rehearing, or move to disqualify Commissioner Hiatt. After the Commission approved the settlement and stipulated rates, Gann appealed and also sought to challenge earlier Commission orders and the Winter Storm Cost charge.

PROCEDURAL HISTORY

PSO initiated a ratemaking proceeding before the Oklahoma Corporation Commission and submitted extensive evidence. The Commission approved the settlement agreement and stipulated rates in Final Order No. 746624 on January 15, 2025. Gann, who was not a party to the Commission proceeding, appealed to the Oklahoma Supreme Court, which retained the appeal under article IX, section 20 of the Oklahoma Constitution.

DISPOSITION

affirmed

CASES CITED

- State ex rel. Cartwright v. Oklahoma Natural Gas Co., 1982 OK 11, 640 P.2d 1341
- Turpen v. Oklahoma Corporation Commission, 1988 OK 126, 769 P.2d 1309
- Oklahoma Electric Co-op., Inc. v. State ex rel. Oklahoma Corporation Commission, 1995 OK 91, 903 P.2d 321
- Cox Oklahoma Telecom, LLC v. State ex rel. Oklahoma Corporation Commission, 2007 OK 55, 164 P.3d 150
- Missouri-Kansas-Texas R. Co. v. State, 1985 OK 108, 712 P.2d 40
- In re Hyde, 2011 OK 31, 255 P.3d 411
- State ex rel. Commission of the Land Office v. Corporation Commission, 1979 OK 16, 590 P.2d 674
- In re Oklahoma Development Finance Authority, 2022 OK 48, 511 P.3d 1048
- In re Oklahoma Development Finance Authority, 2022 OK 41, 510 P.3d 165
- State ex rel. Fugate v. Stitt, 2025 OK 54, 577 P.3d 265
- Bailey v. State of Oklahoma ex rel. Service Oklahoma, 2025 OK 34, 572 P.3d 1026

