

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

APPLICATION OF PUBLIC SERVICE)
COMPANY OF OKLAHOMA (“PSO”) FOR)
APPROVAL OF A FINANCING ORDER FOR)
THE COLLECTION OF INCREASED COSTS,)
CAUSED BY THE EXTREME WINTER)
WEATHER AND CONTAINED IN THE)
REGULATORY ASSET AUTHORIZED BY)
ORDER 717625, INCLUDING AN)
APPROPRIATE CARRYING COST, AND SUCH)
OTHER RELIEF AS THE COMMISSION)
DEEMS PSO IS ENTITLED)

CAUSE NO. PUD 202100076

FILED
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COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

Filed February 10, 2022
Re: Order No. 723434

DISSENTING OPINION OF COMMISSIONER BOB ANTHONY

WARNING: Unlawful, unwise, unjust and financially catastrophic potential consequences of the Corporation Commission majority’s fundamentally flawed financing orders imposing onerous, overpriced, nonconsensual debt on Oklahoma’s residential ratepayers are foretold by the following:

- Violating Article X, § 25 of the Oklahoma Constitution by contracting non-“self-liquidating” public debt without a vote of the people.
- Amending by implication Article IX of the Oklahoma Constitution (74 O.S. § 9081) without a vote of the people, adding potentially hundreds of as-of-yet unspecified words in an attempt to resolve the constitutional conflicts and inconsistencies created by the ratepayer-backed bond orders.
- Declaring hundreds of millions of dollars in extreme, extraordinary and excessive gas and purchased power costs to be “fair, just and reasonable expenses and prudently incurred” based on black-box settlement agreements instead of completing the thorough investigations required by law (17 O.S. § 263).
- Tacking additional hundreds of millions of dollars in interest, fees, commissions and financing obligations onto the bills of public utility customers by forcing them to pay for nonconsensual ratepayer-backed bonds over 20, 25 or 28 years!!!

- Retroactively violating the Filed Rate doctrine (Art. IX, §§ 18 and 24) and ratepayers' constitutional contract rights (Art. II, §§ 7 and 23) under their tariff agreements with utilities by, among other things, requiring customers to pay for gas and electricity they did not consume in addition to bond-financing costs not part of the “actual cost of fuel or gas purchased” allowed by law (OAC 165:50-3-1).
- Writing blank checks on the accounts of ratepayers by authorizing unquantifiable, apparently unlimited millions of dollars *more* in uncapped issuance costs for so-called “Credit Enhancement and Arrangements to Enhance Marketability” (including letters of credit, overcollateralization accounts, surety bonds, and other financial guarantees) ostensibly to “enhance marketability” of the ratepayer-backed bonds, but in reality, opening the door to *untold millions more* in self-dealing, cronyism, brother-in-law benevolence, and other political patronage from which neither the Corporation Commission nor “any court in this state” will have the ability to protect ratepayers.
- Abrogating the legal right of any person to file a “complaint” under Commission Rules (OAC 165:50-5-3) objecting to the operation of a utility’s fuel or purchased gas adjustment clause, and circumventing the “general public hearing” related thereto.
- Retroactively bilking consumers by allowing a much higher interest rate range of 2.37% to 6.0% through ratepayer-backed bonds than the near 1% one-year U.S. Treasury Securities interest rate specified by the OCC’s existing tariffs and rules (OAC 165:35-19-10) as a Carrying Charge Rate in the Fuel Cost Adjustment calculation.
- Bogusly claiming “substantial” “customer savings” and outrageously misrepresenting the actually-some-40%-or-more higher costs of ratepayer-backed bonds to the detriment of ratepayers and in violation of the stated legislative intent of the *February 2021 Regulated Utility Consumer Protection Act*.
- Misleadingly insisting utilities are “not profiting” from securitization or operation of the fuel cost adjustment when the utility companies benefit financially both from transferring the winter storm debt off their balance sheets and onto ratepayers, and by getting paid millions of dollars to service the debt created by the bonds.
- Precedent-setting pancaking multiple layers of ratepayer-backed debt on future generations of gas and electric customers who can only pray there are no more “winter storm events” in the next thirty years while they are still paying off this one.

Today’s PSO final Financing Order (2-1 vote) does not comply with the plain text of the so-called “Consumer Protection” Act. 74 O.S. Supp. 2022 Section 9073 required the Commission to show that the securitization of February 2021 winter storm costs provides “substantial” savings to ratepayers compared with traditional public utility financing. In that regard, how can you find that there are “substantial” savings, when you do not know how much the ratepayer-backed bonds will actually cost? The Financing Order shifts to ODFA the Commission’s

constitutional duty to address repayment of the storm related debt as well as set related fair, just and reasonable rates and charges. Under the Financing Order, ODFA can set the interest for ratepayer-backed bonds between 2.37% and 6.0%. Over the twenty-year life of the bonds, the difference in total interest accrued could vary between 180 million dollars at 2.37% and over 450 million dollars at 6.0% interest.

“Traditional utility financing” might legitimately be used to finance a new electric generating plant, but it is unjustifiable to pay for unconstitutional, nonconsensual debt retroactively forced on residential ratepayers. These bonds are like the salesman who sold you a car calling you up years later and saying you actually owe 40% more – BUT, he says, he’s “saving” you money because he’s not charging you the price of a new luxury car.

Having been repeatedly warned of these potential consequences, for Corporation Commissioners to persist in writing blank checks on the accounts of Oklahoma ratepayers is nothing short of malfeasance.