PUBLIC UTILITIES - OKLAHOMA

City of Oklahoma City v. Oklahoma Corporation Commission

Supreme Court of Oklahoma - November 6, 2024 - P.3d - 2024 WL 4687324 - 2024 OK 77

City filed a petition in error, appealing final order issued by the Oklahoma Corporation Commission which granted an application filed by public utilities division (PUD) seeking a order that, under the February 2021 Regulated Utility Consumer Protection Act, city utility may not bill customers for franchise fees, municipal fees or taxes, and/or gross receipts taxes when such fees and taxes were based upon specific securitized revenue customer payments.

The Oklahoma Municipal League's request to intervene was granted by the Commission, and the League also filed a petition in error challenging the final order.

The Supreme Court held that:

- Corporation Commission exercised a legislative function when it considered PUD's application, and
- Commission's determination that the February 2021 Regulated Utility Consumer Protection Act changed utility's legal obligations concerning municipal franchise fees and gross receipts taxes was a determination not sustained by law.

The Oklahoma Municipal League possessed standing to participate in the Corporation Commission proceeding brought to prevent utilities from collecting franchise fees and gross receipts taxes based upon specific "securitized revenue"; the League's members had pecuniary interests which were affected by the Commission's order affecting utility rates.

Corporation Commission exercised a legislative function when it considered public utilities division's (PUD) application seeking an order that, under the February 2021 Regulated Utility Consumer Protection Act, city utility could not collect fees or taxes based upon securitization revenue customer payments; language of Commission's final order was primarily legislative and not judicial when combined with the PUD's application requesting that the Commission legislate a result consistent with the PUD's perception of fairness for customers by alleviating them from the PUD's perceived "windfall" for municipalities.

Corporation Commission's determination that the February 2021 Regulated Utility Consumer Protection Act changed, amended, or altered utility's legal obligations concerning municipal franchise fees and gross receipts taxes was a determination not sustained by law; the Act did not give the Commission the authority to determine the legality of a municipal franchise fee or whether a franchise fee liability is legally unenforceable via a utility rate or tariff because of the Act.

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