



ORIGINAL

FILED
SUPREME COURT
STATE OF OKLAHOMA

OCT - 6 2022

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

THE CITY OF OKLAHOMA CITY,
APPELLANT,

V.

CORPORATION COM'N OF
OKLAHOMA
APPELLEE.

JOHN D. HADDEN
CLERK

Supreme Court No. 120,707

Cause PUD 2022-000073

Received:	10-6-22
Booked:	
Marshall:	
COA/OKC:	
COA/TUL:	

**OKLAHOMA CORPORATION COMMISSION'S
RESPONSE TO PETITION IN ERROR**

Is the Oklahoma Corporation Commission willing to participate in an attempted settlement of the appeal by predecisional conference under Rule 1.250?

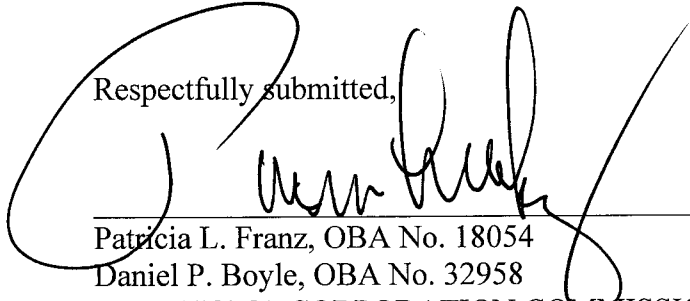
☒ YES ☐ NO

Attach as exhibit "A" appellee's statement of the case not to exceed one 8 1/2" x 11" double spaced page if not clearly set out by appellant in petition in error.

In accelerated appeals from orders granting motion for summary judgment or motion to dismiss only appellee shall either file the counter-designation of record, if any, with the response to the petition in error, or shall also file concurrently with response any supplement to record on accelerated appeal. See Rule 1.36(e)(1) and (2).

DATED: October 6, 2022.

Respectfully submitted,


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CERTIFICATE OF SERVICE

I certify that on October 6, 2022, a copy of the foregoing document was sent by first-class U. S. Mail, postage prepaid as indicated below, to:

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I hereby certify that on October 6, 2022, a copy of the above and foregoing was delivered to the Attorney General's Office, pursuant to Okla.Sup.Ct.R.190(b).



Patricia L. Franz

Exhibit A

This is an appeal of a final order of the Oklahoma Corporation Commission (“Appellee OCC” or “Commission”) issued on the application of the Director of the Public Utility Division prohibiting regulated utility Respondents below (“Respondent Utilities”) from billing customers for any franchise fees, municipal fees or taxes, and/or 68 O.S. § 2601 taxes (including gross receipt taxes) (“Franchise-Related Payments”) based on 74 O.S. §§ 9070 *et seq.* February 2021 Regulated Utility Consumer Protection Act (“Act”) securitization property or securitized revenue.

In so doing, the Commission acted within its limited authority – it determined certain expenses regulated utilities are not permitted to charge to, and recover from, ratepayers. Okla. Const. Art. IX § 18, and 17 O.S. §§ 151 *et seq.* The Commission *did not* determine whether or not Franchise-Related Payments are *owed* by the Respondent Utilities to Appellant or any other political subdivision pursuant to contracts or other applicable law. It prohibits Respondent Utilities, until or unless the Commission orders otherwise, from recovering Franchise-Related Payment expenses, if any, based on securitization property or on securitized revenue collected by Respondent Utilities acting only as servicers to repay bonds issued under the Act. To the extent there is disagreement or dispute between the utilities and entities claiming they are owed Franchise-Related Payments, the Commission is not the proper forum for such dispute(s). Respondent Utilities did report to the Commission at hearing that Franchise-Related Payments on non-securitized revenue or other property not subject to the Act, were and have been charged to and collected from ratepayers.

Further, in light of the limited scope of the Commission’s order, Appellant cannot demonstrate it will suffer adverse effects that are direct, substantial and immediate; and therefore, lacks standing to appeal the Commission’s order. *See, Oklahoma Elec. Co-op., Inc. v. State ex rel. Oklahoma Corp. Com’n*, 1995 OK 91, ¶¶ 11-13, 903 P. 2d 321, 324.