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LAKE REGION ELECTRIC, et al. v. STATE, ex rel. OKLAHOMA CORP. COMMISSION, et al.

2025 OK 78

Case Number: 119054

Decided: 10/28/2025

THE SUPREME COURT OF THE STATE OF OKLAHOMA

Cite as: 2025 OK 78, __ P.3d __

NOTICE: THIS OPINION HAS NOT BEEN RELEASED FOR PUBLICATION. UNTIL RELEASED, IT IS SUBJECT TO
REVISION OR WITHDRAWAL.

In the matter of the APPLICATION OF LAKE REGION ELECTRIC COOPERATIVE, INC.
FOR AN ORDER ENJOINING OKLAHOMA GAS AND ELECTRIC COMPANY
FROM SERVING ELECTRIC-CONSUMING FACILITIES IN VIOLATION OF THE
RETAIL ELECTRIC SUPPLIER CERTIFIED TERRITORY ACT:
LAKE REGION ELECTRIC COOPERATIVE, Applicant/Appellant,
and
OKLAHOMA ASSOCIATION OF ELECTRIC COOPERATIVES, Intervenor/Appellant,
v.
STATE OF OKLAHOMA ex rel. OKLAHOMA CORPORATION COMMISSION, Appellee,
and
OKLAHOMA GAS & ELECTRIC COMPANY, Respondent/Appellee,
and
CHEROKEE NATION and CHEROKEE NATION ENTERPRISES, LLC, Intervenor/Appellees.

MEMORANDUM OPINION

COMBS, J.:

¶1 This is an appeal of a Final Order by the Oklahoma Corporation Commission sitting *en banc* issued August 18, 2020. Applicant/Appellant Lake Region Electric Cooperative (hereinafter "Lake Region") sought an order enjoining Respondent/Appellee Oklahoma Gas & Electric Company (hereinafter "OG&E") from serving electric-consuming facilities owned by Intervenor/Appellees Cherokee Nation and Cherokee Nation Enterprises, LLC. The basis for Lake Region's requested injunction was its allegation that OG&E's servicing of electricity at those facilities violated the Retail Electric Supplier Certified Territory Act (RESCTA), 17 O.S.2011, §§ 158.21--158.32. The Corporation Commission seemingly agreed that OG&E had violated section 158.25(E) of RESCTA insofar as OG&E did not simply "extend[] its service" using its own retail distribution system as permitted under the One-Megawatt/Large-Load Exception, but rather used third party transmission lines to reach the facilities in Lake Region's territory. See ROA at pp. 684--85, Doc. 98: Final Order 6--7, Aug. 18, 2020. We qualify that characterization as "seemingly agreed" because the Corporation Commission "recognized the similar issues raised in both this Cause and Cause No. PUD 201800075"--which was the matter on appeal in *OG&E v. State ex rel. Okla. Corp. Comm'n (CKenergy I)*, 2023 OK 33, 535 P.3d 1218, *overruled prospectively by OG&E v. State ex rel. Okla. Corp. Comm'n (People's)*, 2025 OK 15, ¶ 64, 565 P.3d 418, 435--and because the Corporation Commission ultimately concluded in Cause No.

PUD 201800075 that OG&E had violated section 158.25(E) of RESCTA. *Id.* at p.685, Final Order 7. Nevertheless, the Corporation Commission found that the case "involve[d] equitable defenses not addressed in Cause No. PUD 201800075, and should be determined based upon [its] individual facts and circumstances." *Id.* In reaching those equitable issues, the Corporation Commission found that "laches is applicable as Lake Region neglected to seek a remedy in a timely fashion"; that "Lake Region's claim is barred by waiver"; and that "Lake Region is now estopped to claim it has exclusive rights to this service." *Id.* at pp. 687--88, Final Order 9--10. Thus, the Corporation Commission held that Lake Region's application for injunctive relief should be denied in light of the equitable defenses affirmatively pled and proved by OG&E. *Id.* at p.688, Final Order 10.

¶2 The issues raised on appeal concerned whether the Large-Load Exception to RESCTA permits OG&E to connect with third-party transmission lines to "extend" its retail electric service to a customer in Lake Region's certified territory and whether the equities were properly weighed. We retained this appeal in conjunction with our retention of the appeals filed in Case Nos. 118,857, 119,054, 119,083, 119,088, and 119,173 and our recall of assignment of the appeals in Case Nos. 117,896 and 117,902 to the Court of Civil Appeals, as all of these appeals involved issues arising under section 158.25(E) of RESCTA. This is the last of those appeals to be addressed. See *CKenergy I*, 2023 OK 33, 535 P.3d 1218(addressing the appeals in Case nos. 117,896 and 117,902), *overruled prospectively by People's*, 2025 OK 15, 565 P.3d 418; *People's*, 2025 OK 15, 565 P.3d 418(addressing Case No. 118,857); *OG&E v. Okla. Corp. Comm'n (CKenergy II)*, 2025 OK 43, 571 P.3d 729(addressing Case Nos. 119,088 and 119,173); *Okla. Elec. Coop. v. State ex rel. Okla. Corp. Comm'n*, 2025 OK 60, --- P.3d --- (addressing Case No. 119,083). Upon review of the record and briefs of the parties, this Court has determined the issues raised in this appeal have already been decided in our recent opinion in *Oklahoma Electric Cooperative v. State ex rel. Oklahoma Corporation Commission*, 2025 OK 60, --- P.3d ---. In *Oklahoma Electric Cooperative*, we held RESCTA's Large-Load exception does not permit OG&E to connect with third-party transmission lines in order to extend its service into someone else's certified territory in accord with our prior decision in *People's*, 2025 OK 15, 565 P.3d 418, but that OG&E should nevertheless not be enjoined from serving the customer because *People's* holding has prospective-only application. 2025 OK 60, ¶ 0, --- P.3d at ---. For that reason, we affirmed the Commission's order in *Oklahoma Electric Cooperative* insofar as it permitted OG&E to continue providing retail electric service. We now affirm the Final Order of the Corporation Commission *en banc* in this matter for the same reason.

**FINAL ORDER OF THE OKLAHOMA CORPORATION
COMMISSION AFFIRMED**

ROWE, C.J.; KUEHN, V.C.J.; and WINCHESTER, COMBS, DARBY, KANE, and JETT, JJ., concur.

EDMONDSON and GURICH, JJ., disqualified.

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<u>2023 OK 33</u> , <u>535 P.3d 1218</u> ,	<u>OKLA. GAS AND ELECTRIC CO. v. STATE ex rel. OKLA. CORPORATION COMMISSION</u> Discussed at Length
<u>2025 OK 15</u> , <u>565 P.3d 418</u> ,	<u>OKLAHOMA GAS AND ELECTRIC CO. v. STATE ex rel. OKLAHOMA CORP. COMMISSION</u> Discussed at Length

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<u>2025 OK 43, 571 P.3d 729,</u>	<u>OG&E Co. v. OKLAHOMA CORPORATION COMMISSION et al.</u>	Discussed
<u>2025 OK 60,</u>	<u>OKLAHOMA ELECTRIC COOPERATIVE, et al., v. STATE ex rel. OKLAHOMA CORPORATION COMMISSION</u>	Discussed at Length

Title 17. Corporation Commission

Cite	Name	Level
<u>17 O.S. 158.21,</u>	<u>Short Title</u>	Cited