

SEP 03 2026

BEFORE THE INSURANCE COMMISSIONER OF THE **INSURANCE COMMISSIONER**
STATE OF OKLAHOMA **OKLAHOMA**

IN RE: HEARING PURSUANT TO 36 O.S.)
 § 984 AS TO WHETHER THE OKLAHOMA) **CASE NO. 26-0820-TRN**
 HOMEOWNERS INSURANCE MARKET)
 IS NONCOMPETITIVE)

**REPLY OF THE OKLAHOMA ATTORNEY GENERAL TO THE INSURANCE
DEPARTMENT'S RESPONSE**

COMES NOW the State of Oklahoma, ex rel. Gentner Drummond, Attorney General of the State of Oklahoma (the "Attorney General"), a party to this proceeding pursuant to 74 O.S. § 18b(22), and submits this Reply to the Response of the State of Oklahoma, ex rel. Glen Mulready, Insurance Commissioner (the "Department"), filed September 1, 2026.

The Response resolves much of the Omnibus Pre-Hearing Motion by stipulation. What remains in dispute is narrow, and on each remaining point the governing statutes and rules favor the relief requested. The Attorney General states as follows.

I. INTRODUCTION AND SUMMARY

1. The Department stipulates or agrees in principle to the substance of Motions 1, 4, 6, 7, 8, and 10, and to the background and governing framework set out in the Motion. (Response at 1–2, 5, 6, 7, 9.) The Attorney General accepts those stipulations, as set out in Part II.

2. **The Department also makes an important concession on the threshold legal question.** While noting some ambiguity, the Department states: "If necessary to ensure the fairness and integrity of the hearing, the Department does not object to application of Article II of the APA." (Response at 2.) The Attorney General agrees that Article II governs and asks this Court to

so hold. That conclusion is compelled by the Administrative Procedures Act, which defines "Rule" to exclude both "the approval, disapproval or prescription of rates" and "orders by an agency," 75 O.S. § 250.3 (definition of "Rule," subparagraphs (b) and (e)) — the two things a § 984 determination is. The Attorney General addresses this question more fully in his contemporaneously filed Reply to the Response of NAMIC and APCIA, which urge the contrary position, and respectfully incorporates that discussion by reference.

3. Five matters remain genuinely in dispute: remote public observation (Motion 2); advance disclosure of materials the Department or Hearing Examiner intends to notice or rely upon (Motion 3 and the related component of Motion 6); the post-hearing briefing schedule (Motion 5); allocation of hearing time (Motion 9); and an order affirming a fair and impartial hearing (Motion 11). The Attorney General also responds to the two motions the Department raises for the first time in its Response.

II. MATTERS RESOLVED BY STIPULATION

4. **Motion 1 (Remote Expert Testimony).** The Department stipulates to remote appearance and testimony by the Attorney General's experts and asks the same accommodation for its own witnesses. (Response at 2.) The Attorney General has no objection; the Motion itself sought a reciprocal accommodation "available to any other party of record on the same terms." The parties are in agreement.

5. **Motion 4 (Court Reporter and Stenographic Record).** The Department stipulates to a full stenographic record by a competent court reporter at the requestor's expense under OAC 365:1-7-5(a), which 75 O.S. § 309(G) likewise permits at the requesting party's expense. (Response at 5.) That is what the Motion requested, and the Attorney General confirms he will

bear that cost. He reiterates that the stenographic transcript is **in addition to**, not in lieu of, the electronic recording § 309(G) independently requires, which the Department confirms it makes and will produce. (Response at 5.) The Attorney General requests that the certified transcript, once prepared, be made part of the official record.

6. Motion 8 (Offers of Proof). The parties agree to an order authorizing formal offers of proof by narrative summary of counsel, transcribed in the stenographic record, with any excluded exhibit docketed and maintained as part of the official record. (Response at 7.) No dispute remains.

7. Motion 10 (Written Pre-Hearing Order). The Department stipulates to entry of a written order memorializing all rulings made at the pre-hearing conference. (Response at 9.) The parties agree.

8. Motions 6 and 7 (Record Designation; Pre-Filing and Exchange). The Department agrees to certify and transmit the entire record on judicial review under 75 O.S. §§ 309 and 320 and 36 O.S. § 320 (Response at 6), and to a reciprocal pre-filing and exchange procedure with deadlines for objections and motions in limine and a good-cause exception (Response at 6–7). The Attorney General agrees; the Motion likewise proposed a good-cause exception. He asks only that the exchange, objection, and motion-in-limine deadlines be set far enough in advance of September 14, 2026, to permit meaningful review of expert and data-intensive exhibits. The single point of disagreement within Motion 6 — the third request in its prayer for relief, concerning materials the Commissioner, the Department, or the Hearing Examiner receives or reviews — is addressed with Motion 3 in Part III.B.

III. MATTERS REMAINING IN DISPUTE

A. Motion 2 — Remote Observation Should Be Ordered for This Public Hearing

9. The Department does not dispute that the determination "is relevant to every homeowner in Oklahoma." (Response at 3.) It resists only the means of access, arguing that in-person attendance is available, that the recording and transcript will be public records, and that no statute compels a livestream. (Response at 3–4.) None of these answers the request.

10. **After-the-fact records are not contemporaneous observation.** The Open Records Act guarantees a right to obtain records that already exist. 51 O.S. § 24A.5; see id. § 24A.2 (statement of policy). It says nothing about the public's ability to watch a quasi-judicial proceeding as it occurs. The Department's own rule contemplates something more immediate, providing that "all hearings shall be open to the public." OAC 365:1-7-4(a) (cited at Response at 4). A citizen who must wait days or weeks to request a transcript has not attended an open hearing; he has read about one.

11. **No statutory command is necessary.** The Attorney General does not contend that a livestream is statutorily compelled. He asks this Court to order one as a reasonable exercise of the authority reserved by paragraph 5 of the Order filed July 29, 2026, to adopt "[a]ny additional procedures the independent Hearing Examiner deems necessary to ensure an efficient, orderly, and fair hearing, consistent with 36 O.S. § 984." The absence of a rule requiring a livestream is not a rule prohibiting one.

12. **The public, not the parties, is the constituency this request serves.** The Attorney General clarifies a point from the Motion. Because the deadline for entries of appearance passed on August 26, 2026, the number of *participants* is now known and modest — seven. (Response at 8.) The Motion's earlier reference to more than one hundred noticed insurers appearing with counsel and witnesses is therefore no longer apt, and the Attorney General withdraws it. The

capacity concern that remains is not about the parties. It is about everyone else. Approximately 109 insurance companies write homeowners coverage in Oklahoma (Motion, Ex. F ¶ 15), and their policyholders — together with the press, legislators, and interested members of the public — need file no entry of appearance to attend. They are precisely the audience that an "open to the public" hearing exists to serve, and precisely the audience for whom a single room at a fixed hour is a real constraint. That constraint falls hardest on Oklahomans who live far from Oklahoma City or cannot travel.

13. **The stated lack of software does not defeat the request.** (Response at 4.) This Court is conducting the pre-hearing conference by Microsoft Teams, and the hearing is set at the Oklahoma State Capitol, a building already equipped to broadcast proceedings held in its hearing rooms.¹ The Attorney General asks only that existing capability be extended, is prepared to confer on logistics, and is willing to bear reasonable costs. The request is for **observation only**: it does not permit remote participants to offer evidence, argument, or comment, and does not expand the universe of parties.

B. Motion 3 (and Motion 6(c)) — Advance Disclosure of Materials To Be Noticed or Relied Upon

14. The Department's objection rests on a misreading of the request. The Department says it will disclose the witnesses and exhibits it intends to present, but only on the common exchange

¹The Office of Management and Enterprise Services, which administers Capitol facility reservations, describes the Capitol's multipurpose rooms as "equipped with flatscreen TVs and audio capabilities" and lists "Audio/video setup" among the items available to reserve. OMES, *Capitol Event Reservations* 1–2. The Capitol also broadcasts proceedings live from multiple hearing rooms: the Oklahoma State Senate advises that committee meetings held in Rooms 230, 419-A, 419-B, 419-C, 511A, and 535 "can be seen and heard live anywhere with internet access." Okla. State Senate, *Senate Audio and Video*. The Attorney General believes that Multi-Purpose Room 100 is presently configured for livestreaming and the is prepared to confer on logistics and to bear reasonable costs.

deadline, and that it should not have to produce "records not intended to be presented during the hearing." (Response at 4.) The Attorney General does not seek general discovery of the Department's files. He seeks disclosure of a distinct category: material the Department or the Hearing Examiner intends to **officially notice** or otherwise rely upon in reaching the determination.

15. That category is governed by its own statute, which the Response never addresses. Title 75 O.S. § 310(4) provides that when material is officially noticed, "[p]arties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, **including any staff memoranda or data**, and they shall be afforded an opportunity to contest the material so noticed." (Emphasis added.) The disclosure requested is the mechanism § 310(4) requires. The Department's Response cites §§ 309(B), 309(F)(2), and 309(H); it does not mention § 310(4).

16. The provisions the Department cites confirm the point. Section 309(H) requires that findings rest "exclusively on the evidence received **and on matters officially noticed**." (Emphasis added). Official notice is therefore a recognized, independent channel by which material may enter the decision — separate from "evidence received or considered" under § 309(F)(2). Section 310(4) conditions the use of that channel on prior notice and an opportunity to contest. Section 309(F)(7) likewise makes data submitted to the Hearing Examiner part of the record only where "all parties have had access to such evidence." *See State ex rel. Okla. State Bd. of Med. Licensure & Supervision v. Rivero*, 2021 OK 31, ¶ 67, 489 P.3d 36, 60–61 (setting out § 309(F) in full).

17. This concern is not hypothetical; the Department has already told this Court what it holds and how it uses it. The Department's April 7, 2026, Order recites that the Commissioner and Department staff "closely monitor and analyze the Oklahoma homeowners insurance market,

including its market concentration and rate increases and decreases, through required financial statements and filings, rate filings, market data calls, and other submissions of documents and data," and that the findings in that Order "are based on this data and analysis." (Motion, Ex. F ¶ 13.) The Order then deploys that material: a Herfindahl-Hirschman Index score of 1362 (*id.* ¶ 18); a Four-Firm Concentration Ratio of approximately 60% (*id.* ¶ 19); a five-year table of combined ratios drawn from a legislative interim-study presentation and S&P Global Market Intelligence (*Id.* ¶ 20); and a compilation of thirty-three 2025 rate filings by the twenty largest writers (*Id.* ¶ 21). Section 984(C) confirms the practice, authorizing the Commissioner to "utilize existing relevant information, analytical systems and other sources." This is exactly the material most likely to be officially noticed, and exactly the material the Attorney General must see in advance to have a meaningful opportunity to contest it.

18. The dispute may be narrower than it appears. If the Department intends to notice or rely upon nothing beyond the exhibits it will formally offer, it can say so, and the issue dissolves. If it intends to rely on staff data or analyses — that any "staff memorandum, market analysis, data compilation, or other material received or reviewed by the Commissioner, the Department, or the Hearing Examiner in connection with this proceeding be made part of the record and accessible to all parties" (the kind catalogued above, § 310(4) entitles the parties to advance notice and an opportunity to contest. For the same reason, the third request in Motion 6's prayer for relief of Motion at 19) — is not "overly broad" (Response at 6). It asks only that such material be disclosed, made accessible, and placed in the record — the precondition §§ 309(F)(7) and 310(4) impose before such material may support the final order.

C. Motion 5 — The Briefing Schedule Can Be Reconciled With § 319

19. The parties agree that each side may file independent proposed findings of fact and conclusions of law. (Response at 5.) The disagreement is one of timing. The Department observes that 36 O.S. § 319 requires a final order within thirty days after termination of the hearing and argues that the schedule proposed in the Motion would consume the entire period. (Response at 5.)

20. **Section 319 supplies its own answer.** The thirty-day period runs "unless such time is extended by stipulation." 36 O.S. § 319. The Attorney General is prepared to stipulate to a reasonable extension so that the parties may adequately brief the statutory factors and the other matters bearing on the determination, and so that this Court may consider that briefing before ruling. Adequate post-hearing briefing is not a formality: the determination must be "made on the basis of findings of fact and conclusions of law," 36 O.S. § 984(B)(2); any adverse ruling must "identify the factors causing the market not to be competitive," *Id.* § 984(A); and the order must "include a ruling upon each proposed finding," 75 O.S. § 312; OAC 365:1-7-6.

21. **The Attorney General does not insist on the specific intervals proposed.** Should this Court prefer to remain within the unextended thirty-day window, he will accept a compressed schedule — for example, simultaneous proposed findings due ten days after delivery of the certified transcript, with no responses, or such other schedule as this Court directs. The objective is a meaningful opportunity to submit proposed findings on each factor and to obtain a ruling on each.

D. Motion 9 — Time Should Be Allocated by Position, Not by Headcount

22. This is the parties' central procedural dispute. The Department asks that time be allocated equally "to each participant," invoking due process for "all persons, not just the party(ies)

bearing the burden of proof." (Response at 7.) The Attorney General agrees that due process protects every party. That principle supports allocation by position.

23. The question before this Court is binary: whether a reasonable degree of competition exists in the Oklahoma homeowners insurance market. A rule dividing time by the number of appearing entities assigns hearing time according to how many entities hold a given view — a metric with no bearing on the six factors this Court must weigh.

24. **The Department's own tally demonstrates the asymmetry.** Of the seven parties, three — NAMIC, APCIA, and the Oklahoma P&C Advocacy Association — appear on behalf of insurers and share the competitive-market position. (Response at 8.) A per-participant division therefore hands that position a structural multiple of the time available to the Attorney General, who must prove six distinct propositions against a statutory presumption. 36 O.S. § 984(A).

25. The Department's remaining objections do not withstand the framework the Motion proposed. That the parties' positions are "unknown at this time" (Response at 8) is not an obstacle: allocation by position lets each side apportion its half internally, so any party aligned with the noncompetitive position draws from the Attorney General's half, and any party aligned with the competitive position draws from the other. The observation that insurers are "already grouped" through two associations (Response at 8) reinforces the point — grouping and equal-time allocation are companions, because a grouped side can designate lead counsel and lead witnesses and allocate its collective share as it sees fit.

26. **The Attorney General accepts the ancillary mechanics the Department offers** — a designated timekeeper and running time record, time in cross-examination charged to the cross-examining side, equivalent additional time if one side exceeds its share, and additional time on a showing of good cause. (Response at 8–9.) Each was proposed in the Motion. The parties differ

only on the denominator, and because "[o]pportunity shall be afforded all parties to respond and present evidence and argument on all issues involved," 75 O.S. § 309(C), the fair denominator is position rather than headcount.

E. Motion 11 — An Order Affirming a Fair and Impartial Hearing Remains Appropriate

27. The Department reads Motion 11 as an accusation requiring "strict evidence" of bias. (Response at 9.) The relief requested is narrower: a written order affirming that the Attorney General will be afforded a fair and impartial hearing and consideration, and that the determination will rest exclusively on the hearing record. The Attorney General has not filed an affidavit of disqualification under 75 O.S. § 316 and does not seek anyone's recusal. The Department further argues that the Commissioner's prior media statements "should not be considered by the Hearing Examiner" because findings must rest "exclusively on the evidence received and on matters officially noticed." (Response at 10; 75 O.S. § 309(H).) These were attached as the record basis for the concern Motion 11 identifies.

28. **A clarification of authority.** Paragraph 77 of the Motion quoted the statutory withdrawal requirement — "[a] hearing examiner or agency member shall withdraw from any individual proceeding in which he cannot accord a fair and impartial hearing or consideration" — and cited 75 O.S. § 310. That provision is correctly cited as **75 O.S. § 316**. See *Wilson v. Okla. Horse Racing Comm'n*, 1996 OK 3, ¶ 9, 910 P.2d 1020, 1022 (quoting § 316). The Attorney General regrets the error and notes it does not affect the substance of the request.

29. **The governing standard.** "A tribunal is not impartial if it is biased with respect to the factual issues to be decided at the hearing." *Wilson*, 1996 OK 3, ¶ 16, 910 P.2d at 1024 (quoting *Miller v. Mission*, 705 F.2d 368, 372 (10th Cir. 1983)). Relying on *Staton v. Mayes*, 552 F.2d 908,

913 (10th Cir. 1977), the Court held that "firm public statements before the hearing" on the matter to be decided "reveal a tribunal not meeting the demands of due process for a hearing with fairness and the appearance of fairness." *Id.* The duty extends to avoiding "even the appearance of impropriety." *Arbuckle Simpson Aquifer Prot. Fed'n of Okla., Inc. v. Okla. Water Res. Bd.*, 2013 OK 29, ¶ 13, 343 P.3d 1266, 1271. The Attorney General acknowledges that an agency's combination of investigative and adjudicative roles does not by itself offend due process, *Withrow v. Larkin*, 421 U.S. 35, 46–47 (1975), and Motion 11 does not rest on that theory.

The April 7, 2026, Order Was Not, in Substance, a Standing Dismissal

30. The Department's principal answer to Motion 11 is that "[t]he Motion fails to mention that the primary reason the Commissioner denied Bob Sullivan's prior hearing request was because he did not establish that he had standing to request such a hearing." (Response at 10–11.) The Order itself does not bear that characterization out.

31. **Standing occupies one sentence of a nine-page Order.** The word appears once, in the final sentence of paragraph 24, introduced by "Nor" — that is, as an alternative holding appended after the merits determination had already been made. (Motion, Ex. F ¶ 24.) By contrast, eleven consecutive paragraphs of findings — paragraphs 13 through 23, spanning pages 3 through 7 — are devoted to the competitive condition of the Oklahoma homeowners insurance market. Paragraph 25 adds a further merits comparison to the 2016 earthquake market. Had standing been the ground of decision, none of that analysis was necessary.

32. **The Order resolved the merits of the identical question, under the identical statutory factors.** Paragraph 24 begins: "Taking into consideration the factors listed in 36 O.S. § 984(B)(1) and applying the findings of facts provided above, the evidence supports a finding

that the Oklahoma homeowners insurance market is competitive and does not support a hearing pursuant to 36 O.S. § 984." (Motion, Ex. F ¶ 24.) The Order's opening recital is to the same effect: the Commissioner acted "having fully reviewed the correspondence from Mr. Sullivan **and comprehensive data relating to the current Oklahoma homeowners' insurance market.**" (*Id.* at 1.) That is a determination of the precise question this Court is convened to decide, made by application of the precise six factors this Court must weigh.

33. **And it was made without a hearing, on evidence supplied solely by the Department.** The findings rest on the Department's own monitoring and analysis (*Id.* ¶ 13), its own presentation to a legislative interim study (*Id.* ¶¶ 18, 20), and a press release issued by the Commissioner announcing that "Economic Indicators Show Oklahoma's Homeowners Insurance Market is Competitive" (*Id.* ¶ 18). No opposing evidence was taken, because no hearing was held. The Order simultaneously found that the requesting party had "not provided any information or evidence sufficient to establish the burden of proof" — a burden he had no evidentiary proceeding in which to carry.

34. This is the configuration *Wilson* and *Staton* identify as constitutionally problematic: a decisionmaker who has publicly and formally resolved "the factual issues to be decided at the hearing" before the hearing occurs. *Wilson*, 1996 OK 3, ¶ 16, 910 P.2d at 1024. The concern is reinforced by the Attorney General Opinion cited approvingly in *Wilson*, which reasoned that active involvement in developing a matter "would almost as a necessity lead to preconceived ideas and determinations" and thereby render the participant disqualified under § 316. *Id.* ¶ 14, 910 P.2d at 1023.

35. The Department states that "[t]he Commissioner has appointed an independent hearing examiner to ensure that an objective determination is made based on the law and evidence

presented," and that its "foremost intent is to implement the law." (Response at 7.) However, when the Commissioner has already expressed his position concerning the issue to be heard, and Department's own counsel then appears before the hearing examiner to develop evidence and advocate for that same position, the Department is no longer merely administering a neutral adjudicative process. It is affirmatively developing the evidentiary record in support of the position already adopted by the official who the statute intends to be a neutral decision maker after hearing all evidence. The critical question is whether the structure and conduct of the proceeding permit the hearing examiner to function as the neutral adjudicator contemplated by law, rather than whether the examiner personally believes he or she can disregard the Department's advocacy. See *Arbuckle Simpson Aquifer Prot. Fed'n of Oklahoma, Inc. v. Oklahoma Water Res. Bd.*, 2013 OK 29, ¶ 11, 343 P.3d 1266, 1271. The Department may possess authority to investigate, regulate, and enforce the laws within its jurisdiction. But those powers do not necessarily authorize the Department to assume the role of an advocate in a proceeding that the Legislature has provided a neutral hearing and assigned the burden of proof to the party advocating a particular position. Allowing the Department to supply the evidentiary case for that position risks defeating the procedural safeguards the Legislature established. At minimum, the Department's advocacy creates an appearance that the hearing examiner is being asked to develop or validate a record supporting a conclusion that the Commissioner has already announced, rather than independently evaluate evidence presented by the parties, which is inconsistent with Oklahoma law.

36. The "Form A" analogy does not fit. (Response at 9.) A proceeding under 36 O.S. § 1633(D) concerns a discrete application by an identified applicant. A § 984 determination resolves a market-wide question the Commissioner is statutorily obligated to decide, and the Attorney General is vested by 74 O.S. § 18b(22) with authority to represent consumers' collective interests

in rate-related proceedings before the Commissioner. Had the Legislature intended the Commissioner to advocate the competitive-market position, it would not have separately assigned an advocate for the other.

IV. RESPONSE TO THE DEPARTMENT'S TWO NEW MOTIONS

A. Department's Motion 1 — Order of Proof

37. The Department moves for an order requiring the party bearing the burden of proof to present its case first. (Response at 11.) **The Attorney General does not oppose this motion.** That sequence follows from his burden under 36 O.S. § 984(A), and he is prepared to proceed accordingly.

38. Two clarifications. First, the order of proof does not shift the ultimate burden, which remains by statute on the party advocating that competition does not exist; *Thompson v. State ex rel. Board of Trustees of Oklahoma Public Employees Retirement System*, 2011 OK 89, ¶¶ 11–12, 264 P.3d 1251, 1255, on which the Department relies, confirms the distinction. There the Court held that "[t]he burden of proof remains with" the party the law charges with it, and that where the adjudicator required the opposing party to come forward, "[t]he examiner mistakenly called this the 'burden of proof,' but it was actually the burden of proceeding with the evidence." *Id.* ¶¶ 11–12. Order of proof and burden of persuasion are distinct, and only the former is at issue in the Department's motion. Second, requiring the Attorney General to open underscores the fairness of allocating time by position: the party that must present affirmative proof on six factors, first and in full, requires a share of time commensurate with that task rather than a per-capita fraction.

B. Department's Motion 2 — Motion in Limine

39. The Department moves to limit all evidence and argument to the six factors in 36 O.S. § 984(B) and to the Oklahoma homeowners market, and to exclude in advance evidence relating to "claims handling practices and rate affordability and rate increase impacts on consumers." (Response at 12.) **The Attorney General agrees with the governing premise** — the six factors control the determination, and evidence must be relevant to them and to the Oklahoma homeowners market. He opposes only the request for a blanket, pre-hearing exclusion of entire subject categories.

40. **The Department has itself relied on the very evidence it now asks this Court to exclude.** The April 7, 2026 Order devotes an entire finding to 2025 rate filings, cataloguing thirty-three rate changes and reporting that fourteen "included overall rate impact increases ranging from 2.6% to 31.9%," before concluding that "rate increases for 2025 were substantially less than rate increases filed in previous years and reflect a downward trend." (Motion, Ex. F ¶ 21.) The Order then makes the magnitude of rate increases dispositive of its comparison to the 2016 earthquake determination, reasoning that "[t]he most significant contributing factor to the determination of a noncompetitive market for earthquake insurance in 2016 was the fact that earthquake carriers were seeking rate increases of four percent (4%) to three hundred percent (300%)," which "contrast[s] greatly with the current homeowners market where rate increases filed range from 2.6% to 31.9%." (*Id.* ¶ 25.) A party that has treated rate-increase evidence as the most significant contributing factor in a § 984 analysis cannot consistently maintain that such evidence is categorically irrelevant to a § 984 analysis.

41. **The statutory text does not make the six factors exclusive.** Section 984(B)(1) directs that the Commissioner "shall consider the following factors." It does not say "shall consider only,"

"solely," or "exclusively." The Legislature's omission of limiting language is meaningful, particularly where neighboring provisions are drawn in open-ended terms: § 984(A) requires that a ruling "identify the factors causing the market not to be competitive" — not the enumerated factors — and § 984(C) authorizes the Commissioner to "utilize existing relevant information, analytical systems and other sources, or rely on some combination thereof." Read together, as they must be, these provisions establish a mandatory floor rather than an exclusive ceiling. *See Ledbetter v. Okla. Alcoholic Beverage Laws Enft Comm'n*, 1988 OK 117, ¶ 7, 764 P.2d 172, 179 ("[R]elevant provisions must be considered together, where possible, to give force and effect to each."); *Darnell v. Chrysler Corp.*, 1984 OK 57, ¶ 5, 687 P.2d 132, 134 (every provision "is presumed to have been intended for some useful purpose and every provision should be given effect"). The Oklahoma Court of Civil Appeals reached the analogous conclusion as to an enumerated list in the Insurance Code in *American Fidelity Life Insurance Co. v. State ex rel. Holland*, 2013 OK CIV APP 51, ¶¶ 9–10, 307 P.3d 389, 392, rejecting the argument that § 1204 "constitutes the exhaustive list of unfair and deceptive acts or practices in the insurance industry" where a neighboring provision contemplated practices outside the list.

42. Even on the Department's own premise, the categories it targets bear directly on the enumerated factors. The Attorney General does not concede that the six factors are exclusive, for the reasons just stated; the motion fails even if they were. Factor (e) asks "whether long-term profitability for insurers in the market is reasonable in relation to industries of comparable business risk," and factor (f) asks about "the relationship of insurers' costs to revenue over a reasonable period of time." 36 O.S. § 984(B)(1)(e), (f). Premium, revenue, and cost experience is probative of both — which is why the Department's own Order marshals combined-ratio and rate-filing data.

(Motion, Ex. F ¶¶ 20–21.) Factor (c) reaches "financial or economic barriers that could prevent new firms from entering the market," which may implicate market-conduct evidence.

43. The Attorney General does not seek to adjudicate whether any particular insurer's rate is excessive; that question arises, if at all, only after a noncompetitive finding. *See* 36 O.S. § 985(A)(1). He seeks to offer aggregate cost, revenue, and profitability evidence because that evidence is probative of the enumerated factors and, to the extent this Court considers matters beyond them, of the competitive condition of the market generally. Nothing in this Reply should be read as agreeing that the Attorney General's proof is confined to the six enumerated factors.

44. **The Act supplies the correct mechanism.** Agencies "may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs," and "may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence," with objections "noted in the record." 75 O.S. § 310(1). Relevance is best ruled upon in context, item by item, with offers of proof preserved under the procedure the parties have already agreed to. The Attorney General respectfully requests that the motion in limine be denied or deferred, with relevance ruled upon as evidence is presented rather than foreclosed sight unseen.

V. CONCLUSION

WHEREFORE, PREMISES CONSIDERED, the Attorney General respectfully requests that this Court:

- (a) enter the stipulations reflected in Part II as to Motions 1, 4, 6, 7, 8, and 10, with exchange and objection deadlines set far enough in advance of September 14, 2026, to permit meaningful review;

- (b) order a remote observation option for the public (Motion 2);
 - (c) order advance disclosure, not later than September 4, 2026, of all materials the Department or Hearing Examiner intends to officially notice or rely upon, and grant the third request in Motion 6's prayer for relief, quoted in Part III.B above (Motion 3);
 - (d) set a post-hearing briefing schedule affording a meaningful opportunity to submit and obtain rulings upon proposed findings, the Attorney General being prepared to stipulate to any extension of the 36 O.S. § 319 deadline necessary to accomplish it (Motion 5);
 - (e) allocate hearing time equally by position rather than by headcount, together with the ancillary mechanics the parties have agreed upon (Motion 9);
 - (f) enter a written order affirming that the Attorney General shall receive a fair and impartial hearing, and that the determination will be made de novo by the independent Hearing Examiner exclusively on the hearing record, without regard to the Commissioner's conclusion in the April 7, 2026, Order in Case No. 26-0215-COR or any prior public statement (Motion 11);
 - (g) grant the Department's motion regarding order of proof, to which the Attorney General does not object; and
 - (h) deny or defer the Department's motion in limine, ruling on relevance in context;
- and grant such other and further relief as is just, equitable, and proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of September 2026, a true and correct copy of the above and foregoing **Reply of the Oklahoma Attorney General to the Insurance Department's Response** was filed with the Oklahoma Insurance Department by electronic mail to OIDlegal@oid.ok.gov, and was served by electronic mail upon:

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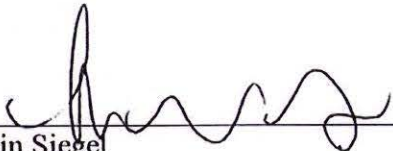
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