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**PUBLIC UTILITIES - CALIFORNIA**

## Southern California Edison Company v. City of Victorville

**Court of Appeal, Fourth District, Division 2, California - June 17, 2013 - Cal.Rptr.3d - 13 Cal. Daily Op. Serv. 6241**

After automobile accident, passenger brought action against city, county, and electric utility for allegedly placing utility pole in unsafe location. Electric utility cross-complained against city for equitable indemnity.

The Court of Appeal held that:

- Superior court had jurisdiction over automobile passenger's claim against electric utility, but
- Utility's failure to comply with claims presentation requirements barred its cross-complaint against city.

If the Public Utilities Commission (1) has the authority to regulate or otherwise establish policy in a given area, and (2) has exercised that authority by regulation or policy, then the superior court may do nothing that hampers or interferes with that exercise of jurisdiction, including awarding damages in a private action. Cal. Pub.Util.Code §§ 1759, 2106.

The statute providing that a superior court may not interfere with the PUC in the performance of its official duties did not deprive the superior court of jurisdiction over automobile passenger's action against electric utility for allegedly placing utility pole in unsafe location, even though PUC had approved a tariff applicable to the utility which contained a release of liability as to actions taken in compliance with the tariff, absent evidence of any specific PUC policy, regulation, decision or study which indicated that it had exercised authority over the siting of street lights. Cal. Pub.Util.Code §§ 1759, 2106, 2902.

Electric utility was required to comply with claims presentation requirements of the Government Claims Act before filing cross-complaint against city for equitable indemnity, since utility's cross-complaint was not solely defensive in nature, even if city's cross-complaint naming "Moe" cross-defendants could be construed as a cross-complaint against utility, where utility's cross-complaint went beyond the set of facts upon which the city defended passenger's complaint and upon which the city's cross-complaint was premised. Cal. Gov. Code §§ 905, 911.2(a).

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