
MUNICIPAL WASTE DISPOSAL - PENNSYLVANIA

Pennsylvania Waste Industries Ass'n v. Monroe County Municipal Waste Management Authority

Commonwealth Court of Pennsylvania - November 21, 2013 - A.3d - 2013 WL 6116099

"In this appeal of interest to counties and municipal authorities statewide, we are asked whether a municipal authority tasked with planning and implementing municipal waste disposal for Monroe County may set the "tipping fees" at private landfills. These fees cover disposal costs in the landfills as well as administrative costs and costs of other aspects of the county-wide waste disposal plan."

The Pennsylvania Waste Industries Association (Appellant) is a trade association of private landfill owners and operators and waste haulers doing business in Pennsylvania. In August 2012, Appellant commenced an action for declaratory judgment against the Monroe County Municipal Waste Management Authority. It challenged the Authority's power to set the "tipping fee" for waste disposal at privately owned facilities and to include in the "tipping fee" the costs of its Integrated Waste Management System and debt service. It argued setting the "tipping fee and including a non-disposal component was ultra vires the Authority and related solid waste laws. Appellant also challenged the Authority's current administrative fee on the same grounds.

Appellant raised two principle arguments. First, it contended that the Authority's "tipping fee," as proposed in the RFP, was ultra vires the Authority's enabling legislation. In other words, the Authority was not empowered under either the Authorities Act or Act 101 to set "tipping fees" at facilities it does not own or operate.

Second, Appellant asserted that the Authority's "tipping fee," as proposed in the RFP, was preempted by Act 101 and related solid waste laws. Allowing municipalities to impose their own local fees undermines a uniform system of standardized fees, applications and grants.

After a lengthy analysis, the court held that the Authority was not authorized by the first clause of Section 5607(d)(9) of the Authorities Act to set the "tipping fee" at landfills in which it does not have a meaningful ownership or operational interest. However, the Authority was authorized by the second clause of Section 5607(d)(9) of the Authorities Act to charge for its administrative services, including debt service.

Further, Act 101 preempts local fees covering recycling programs. However, Act 101 does not preempt other local fees which are otherwise permitted by statute and which are not inconsistent with Act 101's provisions and purposes.

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