

Bond Case Briefs

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PUBLIC UTILITIES - PENNSYLVANIA

GSP Management Co. v. Duncansville Mun. Authority

Commonwealth Court of Pennsylvania - October 19, 2015 - A.3d - 2015 WL 6119434

Operator of mobile home park brought declaratory judgment action against municipal authority, challenging on its face and as applied the authority's rate structure for sewer system use, pursuant to which the rate increased on sliding scale corresponding to amount of metered water supplied to customer. The Court of Common Pleas entered judgment in favor of authority. Operator appealed.

The Commonwealth Court held that:

- Authority's rate structure was valid on its face, but
- Operator was entitled to relief for months in which metered water delivered to park greatly exceeded amount of discharge into sewer system.

Municipal authority's rate structure for calculation of sewer bill, pursuant to which the rate for sewer use increased on sliding scale corresponding to amount of metered water supplied to customer, was not facially invalid under Municipality Authorities Act.

Relief from amounts municipal authority billed operator of mobile home park for use of sewer system during certain months was appropriate in operator's action challenging authority's rate structure, pursuant to which the rate for sewer use increased on sliding scale corresponding to amount of metered water supplied to customer. Operator consumed approximately 40,000 gallons of metered water per month on average, operator's metered water use ranged from 110,000 to 580,000 gallons per month during months at issue due to water loss between metering point and point of discharge into authority's sewer system, and unplanned increase in metered water imposed no increase on burden of sewer system.

Where there is an extraordinary water loss between the point of metering and the point of discharge into a municipal sewer system that is substantial in quantity and unplanned or unanticipated, relief from the sewer charges during those periods of extraordinary water loss would be warranted to ensure that the amount billed and collected is not unreasonable in relation to the service rendered, crossing the line between a permitted fee and an unauthorized tax.