

# **Bond Case Briefs**

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## **PUBLIC UTILITIES - COLORADO**

### **Development Recovery Company, LLC v. Public Service Company of Colorado**

**Colorado Court of Appeals, Div. I - June 15, 2017 - P.3d - 2017 WL 2590529 - 2017 COA 86**

Assignee of claims from real estate developers that entered into extension agreements with public utility brought breach of contract action against public utility, alleging that utility inflated costs of construction for extension of service, failed to refund construction overpayments, and included provisions not permitted in extension agreements.

The District Court granted public utility's motion to dismiss, finding that Public Utilities Commission (PUC) had exclusive subject matter jurisdiction over assignee's claims. Assignee appealed.

The Court of Appeals held that trial court lacked subject matter jurisdiction to hear assignee's claims.

Trial court lacked subject matter jurisdiction to hear claims alleging that public utility inflated costs of construction for service extension, failed to refund construction overpayments, and included provisions not permitted in extension agreements, which were brought by assignee of claims from developers who entered into utility extension agreements, although agreements provided the amount of required construction payments, and even if assignee had cause of action. Public Utilities Commission (PUC) had exclusive jurisdiction over compliance with tariffs, construction costs were addressed in tariffs, assignee did not exhaust administrative remedies before PUC, and fact that assignee sought money damages and a jury trial did not confer subject matter jurisdiction on trial court.