

Bond Case Briefs

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PUBLIC UTILITIES - OHIO

Duke Energy Ohio, Inc. v. City of Hamilton

Court of Appeals of Ohio, Twelfth District, Butler County - July 16, 2018 - N.E.3d - 2018 WL 3428727 - 2018 -Ohio- 2821

Natural gas and electric utility brought action against city, seeking declaratory judgment that city could not provide natural gas or electric services to entities in particular area.

The Court of Common Pleas dismissed territorial exclusivity claim. Utility appealed.

The Court of Appeals held that:

- Judgment dismissing territorial-exclusivity claim was final, appealable order, and
- Claim fell within exclusive jurisdiction of Public Utilities Commission of Ohio (PUCO).

Judgment dismissing, for lack of subject matter jurisdiction, a natural gas and electric utility's territorial-exclusivity claim against city, as asserted in utility's declaratory judgment action, was a final, appealable order; a declaratory judgment action was a special proceeding, dismissal affected utility's substantial rights, and trial court certified there was no just cause for delay.

Claim by natural gas and electric utility, seeking declaratory judgment that it had exclusive right to provide natural gas and electric services within particular territory, fell within exclusive jurisdiction of Public Utilities Commission of Ohio (PUCO); claim was a service-based claim that required PUCO's administrative expertise to resolve.