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EMINENT DOMAIN - IOWA

Puntenney v. Iowa Utilities Board

Supreme Court of Iowa - May 31, 2019 - N.W.2d - 2019 WL 2306289

Landowners and nonprofit environmental organization sought judicial review of decision by Utilities Board which approved construction of underground crude oil pipeline across state and approved use of eminent domain where necessary to condemn easements along pipeline route.

The District Court denied petitions. Landowners and organization appealed.

The Supreme Court held that:

- Organization had standing to appeal;
- Pipeline promoted public convenience and necessity;
- Use of eminent domain did not violate statutes governing condemnation of agricultural land and setting forth additional limitations on exercise of eminent domain;
- Use of eminent domain did not violate Takings Clause of state constitution or federal constitution; and
- Statute authorizing Board to grant rights of eminent domain where necessary did not require pipeline to be rerouted to avoid cutting through landowner's property.

Nonprofit environmental organization had standing to appeal trial court's affirmance of decision by Utilities Board, which approved construction of underground crude oil pipeline across state and approved use of eminent domain where necessary to condemn easements along pipeline route; organization was asserting interests of two of its members, including trail coordinator for Department of Natural Resources and homeowner whose home sat one mile from pipeline, members submitted affidavits describing their use and enjoyment of rivers, streams, soil, and other natural areas and aesthetics, members described concerns that construction and operation of pipeline would have adverse environmental impact on areas they used and enjoyed, and members' concerns were not entirely speculative, remote, or in uncertain future.

Underground crude oil pipeline across state promoted public convenience and necessity as to authorize Utilities Board to approve construction of pipeline; shippers wanted pipeline as way of reducing transportation costs, given that petroleum products were commodities sold in competitive market, lower costs for transportation tended to keep prices of crude oil derivatives lower than they otherwise would be, pipeline would lead to longer-term, reduced prices on refined products and goods and services dependent on crude oil and refined products, which were public benefits, and there was no authority stating that Board could not consider rely on secondary economic benefits resulting from pipeline, e.g., resulting in at least 3,100 construction jobs and more than \$27 million annually in property tax revenue, as public convenience and necessity.

Use of eminent domain to condemn easements along underground crude oil pipeline route did not violate statutes governing condemnation of agricultural land and setting forth additional limitations on exercise of eminent domain; company that constructed pipeline was company under jurisdiction of Utilities Board and, thus, landowner consent was not required prior to condemnation, and

company qualified as common carrier, such that acquisition of any interest in property necessary to its function was authorized, since its service had not been limited to those under contract and ten percent availability for walk-up business was sufficient for common carriers under Federal Energy Regulatory Commission.

Use of eminent domain to condemn easements along underground crude oil pipeline route, as authorized by statute governing use of eminent domain for pipelines, did not violate Takings Clause of state constitution or federal constitution; pipeline was common carrier akin to railroad or public utility, which was kind of taking recognized as valid public use, even when operator was private entity and primary benefit was reduction in operational costs, pipeline provided public benefits in form of cheaper and safer transportation of oil, which in competitive marketplace resulted in lower prices for petroleum products, and pipeline would lead to longer-term reduced prices on refined products and goods and services dependent on crude oil and refined products.

Statute authorizing Utilities Board to grant rights of eminent domain where necessary did not require underground crude oil pipeline to be rerouted to avoid cutting through southwest corner of landowner's property; while landowner claimed that it was not necessary for pipeline to traverse his property, demands of statute were met if pipeline company demonstrated that pipeline required exercise of eminent domain and why particular route proposed was superior, while landowner claimed that pipeline should have been relocated to accommodate plan to install wind turbines, he had merely conceived idea, had no specific plan, and failed to show how pipeline would interfere with plans to erect turbines, and landowner was allowed to file written objections that detailed his concerns about impact of pipeline on his drainage tile.

Installer of underground crude oil pipeline was not required to reroute line to avoid property, whose owner feared that pipeline would destroy drainage tile and concrete pipe installed on his land; diversion of pipeline as owner requested was not feasible, as area of proposed diversion included forest, creek, and county drain line such that installer would have to cut out trees, cross creek, and encumber another drain line, and, thus, least intrusive alternative was to direct installation of pipeline below owner's entire drainage system, including 24-inch concrete main that was already buried up to 22 feet deep.