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City of Baxter v. City of Brainerd

Court of Appeals of Minnesota - July 15, 2019 - N.W.2d - 2019 WL 3070223

Statutory city filed action against neighboring city, seeking enforcement of franchise fee on neighboring city's municipally-owned utility in order to fund pavement management and street- and traffic-lighting activities.

The District Court determined that statutory city was authorized by statute to impose franchise fee on municipally-owned utility. Neighboring city appealed.

The Court of Appeals held that:

- Utility did not constitute "public utility," and thus was not required by statute to pay franchise fee to statutory city;
- Establishment of utility as an independent commission did not deprive utility of its municipal-utility status, and thus utility was not required by statute to pay franchise fee;
- Statute subjecting utilities to municipal regulation did not authorize imposition of franchise fee;
- Statute requiring public service corporations to obtain franchise from city conferring right to furnish public utilities did not authorize imposition of franchise fee;
- Statutory city was not authorized to impose franchise fee, under statute allowing a city to require compensation from a public service corporation serving as its electrical utility; and
- Statute requiring consent for incorporated municipalities to extend public utilities outside their limits did not authorize imposition of franchise fee.

Neighboring city's municipally-owned utility did not constitute "public utility," and thus was not required by statute to pay franchise fee to statutory city, which fee was imposed for purpose of funding statutory city's pavement management and street- and traffic-lighting activities; utility was a municipal utility.

Neighboring city's establishment of its municipally-owned utility as an independent commission did not deprive utility of its municipal-utility status, and thus utility was not required by statute to pay franchise fee to statutory city, which fee was imposed for purpose of funding statutory city's pavement management and street- and traffic-lighting activities, even though utility could act independently to institute, prosecute, and defend on behalf of neighboring city, where neighboring city retained revenue from public utility's operation, neighboring city approved utility's exercise of power to appoint and employ individuals for performance of utility's duties, and neighboring city's council exercised authority to approve utility's budget.

Statute subjecting utilities to municipal regulation did not authorize statutory city's imposition of franchise fee on neighboring city's municipally-owned utility, where ordinance imposing franchise fee contained no language tying franchise fee payment to allowing utility to operate within statutory city, and ordinance indicated its purpose was "to fund pavement management and street- and traffic-lighting activities."

Statute requiring public service corporations to obtain franchise from city conferring right to furnish public utilities did not authorize statutory city's imposition of franchise fee on neighboring city's municipally-owned utility, where statutory city did not exist at time utility began operating as electric utility within area that came to be city limits of statutory city.

Statutory city's ordinance imposing franchise fee did not seek "compensation" for construction, maintaining, or operating utility, and thus statutory city was not authorized, under statute allowing a city to require compensation from a public service corporation serving as its electrical utility, to impose franchise fee on neighboring city's municipally-owned utility, where ordinance sought funding for its pavement management and street- and traffic-lighting related activities.

Statute requiring consent for incorporated municipalities to extend public utilities outside their limits to those of another municipality did not authorize statutory city to impose franchise fee on neighboring city's municipally-owned utility, where utility extended its service prior to statutory city's incorporation.