

Bond Case Briefs

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PUBLIC UTILITIES - PENNSYLVANIA

PPL Electric Utilities Corporation v. City of Lancaster

Supreme Court of Pennsylvania - August 20, 2019 - A.3d - 2019 WL 3926456

Public utility sought declaratory and injunctive relief against city, which was a home rule municipality, based on claim that ordinances that city enacted as part of comprehensive program for management of city's rights-of-way were preempted by the Public Utility Code.

Utility filed an application for summary relief. The Commonwealth Court granted in part and denied in part utility's application for summary relief. Utility appealed, and city cross-appealed.

The Supreme Court held that:

- State law preempted, on the basis of field preemption, ordinance provision concerning municipal inspections of utility facilities in municipal rights-of-way for purposes of city code compliance;
- State law preempted, on the basis of field preemption, ordinance provision authorizing city to direct utilities to relocate or remove utility facilities;
- State law preempted, on the basis of field preemption, ordinance provision authorizing city to impose penalties for a utility's violation of any provision of the ordinance concerning management of the city's rights-of-way, so long as the provision did not fall within the Public Utility Commission's (PUC) exclusive jurisdiction; and
- State law preempted, on the basis of field preemption, ordinance provision permitting city to impose maintenance fees upon utilities for the occupancy and use of rights of way.