

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

---

## **PUBLIC UTILITIES - CALIFORNIA**

### **Communities for a Better Environment v. Energy Resources Conservation and Development Commission**

**Court of Appeal, First District, Division 4, California - November 20, 2020 - Cal.Rptr.3d - 2020 WL 6817480 - 20 Cal. Daily Op. Serv. 12,071 - 2020 Daily Journal D.A.R. 12,486**

Nonprofit environmental groups brought action against Energy Resources Conservation and Development Commission for declaratory and injunctive relief, challenging the constitutionality of a statute that limited judicial review of Commission's decisions on the siting of thermal powerplants.

The Superior Court sustained Commission's demurrer, but that judgment was reversed on appeal. Later, the Superior Court granted groups' motion for summary judgment. Commission appealed.

The Court of Appeal held that:

- Statute that bars certain courts from reviewing Commission decisions conflicts with constitutional provision granting these courts original jurisdiction;
- No other constitutional provision authorizes the statute; and
- Statute that bars judicial review of Commission's findings on questions of fact is an unconstitutional seizure of judicial power.

Statute that bars superior courts and courts of appeal from reviewing Energy Resources Conservation and Development Commission decisions on siting of thermal powerplants is in direct conflict with the state constitutional provision granting these courts original jurisdiction.

State constitutional provision that gives the Legislature the power to establish the manner and scope of review of Public Utilities Commission (PUC) action in a court of record does not authorize the statute that bars superior courts and courts of appeal from reviewing Energy Resources Conservation and Development Commission decisions on the siting of thermal powerplants, and thus the statute is unconstitutional in light of the state constitutional provision granting these courts original jurisdiction.

Statute that mandates that Energy Resources Conservation and Development Commission findings and conclusions on questions of fact regarding siting of thermal powerplants are final and are not subject to judicial review is an unconstitutional seizure of judicial power.