

# **Bond Case Briefs**

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## **PUBLIC UTILITIES - GEORGIA**

### **Georgia Power Co. v. Cazier**

**Court of Appeals of Georgia - March 29, 2013 - S.E.2d -**

*Court holds that public utility customers could not bring direct action against utility for refund of sales taxes, but claim for refund of allegedly miscalculated municipal franchise fees did not impermissibly intrude upon the Public Service Commission's exclusive rate-making authority.*

Customers brought action against electric utility, alleging that utility had improperly collected certain sales taxes and fees that were allegedly not subject to sales tax. The trial court denied utility's motion to dismiss. Utility filed interlocutory appeal.

The court of appeals held that:

- Customers could not bring direct action against utility for refund of sales taxes, but
- Claim for refund of allegedly miscalculated municipal franchise fees did not impermissibly intrude upon the Public Service Commission's exclusive rate-making authority.

Statute governing procedures for claiming refund of erroneously collected taxes from Department of Revenue did not create a cause of action for customers against electric utility for refund of sales taxes utility had collected on certain fees that were allegedly not subject to sales tax. The statute allowed a person who had erroneously paid sales tax the opportunity to bypass the filing of a formal refund claim with Department by first simply requesting a refund from a dealer, while still preserving the person's right to later pursue an administrative remedy with the Department in the event the request for a dealer refund failed, but did not allow the person to bring a direct action against a dealer

Section of Uniform Sales and Use Tax Administration Act, providing time limits and notice requirements for a cause of action against dealers for over-collected sales or use taxes, did not create a direct cause of action against dealers.

Customers' claim did not impermissibly intrude upon the Public Service Commission's exclusive rate-making authority, as the claim did not challenge the validity or reasonableness of any utility rate set by the Commission, and instead simply challenged the method of calculating and collecting the fee.