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EMINENT DOMAIN - MINNESOTA

City of Moorhead v. Red River Valley Co-op. Power Ass'n

Supreme Court of Minnesota - May 1, 2013 - N.W.2d - 2013 WL 1810589

City annexed a residential subdivision with 65 metered electric service accounts. The City then filed a condemnation petition to begin municipal electric service to residents of the subdivision under Minn.Stat. § 216B.47 (2012).

The City's valuation report calculated damages using a traditional fair market value approach in which it calculated the total value of the subdivision's business enterprise before and after the taking, with the difference constituting the compensation due.

The subdivision's report declined to use or consider a fair market value approach, instead limiting its analysis to the four statutory factors set forth in Minn.Stat. § 216B.47: 1) original cost of the facilities less depreciation; 2) loss of revenue to the utility; 3) expenses resulting from integration of facilities; and 4) other appropriate factors. Minn.Stat.

The Supreme Court of Minnesota held that:

- Damages assessment required consideration of statutory factors, rather than merely fair market value, and
- Untimely submission of revised expert report warranted exclusion of portions of report.

Use of only fair market value analysis was contrary to the plain language of eminent domain statute, which stated that the "damages to be paid in eminent domain proceedings must include the original cost of the property less depreciation, loss of revenue to the utility, expenses resulting from integration of facilities, and other appropriate factors," and statutory factors differed from fair market value as, while fair market value calculations generally consider the replacement cost of property, the statute specified that damages were to include the original cost less depreciation.