
PUBLIC UTILITIES - MISSOURI

Laclede Gas Co. v. St. Charles County, Mo.

United States Court of Appeals, Eighth Circuit - April 25, 2013 - F.3d - 2013 WL 1760303

Public gas utility sought injunction against county to prevent county from ordering it to move its gas lines without compensation. The district court granted the injunction.

On appeal, the Court of Appeals held that:

- Utility gave county required 60 day notice before amending complaint to include Pipeline Safety Act (PSA) claim;
- District court was not required to abstain from hearing injunction action; and
- Utility was likely to succeed on the merits of its claim.

The district court had jurisdiction to hear public gas utility's action against county seeking a preliminary injunction barring county from moving or otherwise tampering with utility's gas lines in violation of the Pipeline Safety Act (PSA). The alleged imminent threat of physical damage to the gas lines and concomitant endangerment of the public gave the court jurisdiction under provisions of the PSA allowing preliminary injunction actions by private entities to prevent knowing or willful damage to regulated pipelines.

Public gas utility had substantial likelihood of success on the merits of its claim that it could not be made to move its gas line located along an easement. The Missouri supreme court had already issued an opinion favorable to the utility concerning a gas line on an easement with language similar to the easement at issue in utility's present action, and a Missouri state court had issued an opinion favorable to utility regarding the easement at issue in the present action.

Public interest supported grant of preliminary injunction where lines served numerous customers, a 200 foot retaining wall and several feet of fill were located over one of the gas line easements, and county's plan to remove the lines without assistance from the utility increased the risk of an explosion or leak that would endanger public safety.

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