
PUBLIC UTILITIES - KANSAS

Rural Water Dist. No. 4, Douglas County, Kan. v. City of Eudora, Kan.

United States Court of Appeals, Tenth Circuit - July 1, 2013 - F.3d - 2013 WL 3288083

Rural water district filed § 1983 action, alleging that city violated its exclusive right to provide water service to properties within its service area after city annexed certain properties within that area. City filed counterclaims for tortious interference with business advantage, fraud, abuse of process, and declaratory relief.

The Court of Appeals held that:

- Amendment to Kansas statute governing district's powers did not apply retroactively;
- Court had discretion to take up summary judgment denial on appeal; and
- District failed to demonstrate that loans were absolutely necessary or necessary to completing project.

Rural water district may only obtain federal statutory protection from poaching while repaying a loan from the United States Department of Agriculture (USDA) if state law authorizes it to do so. Agricultural Act of 1961, § 306(b), 7 U.S.C.A. § 1926(b).

Amendment to Kansas statute governing powers of rural water districts, which eliminated requirement that districts demonstrate necessity of obtaining USDA loan guarantees in order to show entitlement to federal protection from poaching while repaying such loans, constituted substantive amendment that did not apply retroactively, and thus district was required, in its § 1983 suit against city for alleged poaching of its customers, to show such necessity. Prior to the amendment, the city had the right to take district's customers if district's USDA-backed loans were unnecessary, and retroactive application of statute would strip city of that right. 42 U.S.C.A. § 1983; Agricultural Act of 1961, § 306(b), 7 U.S.C.A. § 1926(b); K.S.A. 82a–619(g).

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