

Bond Case Briefs

Municipal Finance Law Since 1971

PUBLIC UTILITIES - CALIFORNIA

San Pablo Bay Pipeline Co. LLC v. California Public Utilities Commission

Court of Appeal, Fifth District, California - December 11, 2013 - Cal.Rptr.3d - 2013 WL 6488287

Subsidiaries of Shell Petroleum that own and operate a crude oil pipeline filed writ proceeding to challenge a decision by the California Public Utilities Commission (PUC) concerning the refund of a portion of the fees the subsidiaries collected from Chevron, Tesoro and Valero for transporting oil through the pipeline.

The issue before the court was whether the PUC erroneously included privately owned truck racks and storage tanks in the pipeline assets subject to regulation as a public utility.

The Court of Appeal concluded that the PUC properly interpreted its earlier decision holding that the Shell Petroleum subsidiaries had dedicated the pipeline to public use. That decision addressed the pipeline as a whole and did not include dedication findings on an asset-by-asset dedication basis and did not explicitly mention the truck racks and storage tanks. Nonetheless, the PUC's interpretation that those assets were covered by its dedication decision was consistent with the broad statutory definition of "pipe line" (Pub.Util.Code, § 227) and the axiom that the "greater contains the less" (Civ.Code, § 3536).