

Bond Case Briefs

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PUBLIC UTILITIES - HAWAII

Pacific Lightnet, Inc. v. Time Warner Telecom, Inc.

Supreme Court of Hawai'i - December 18, 2013 - P.3d - 2013 WL 6669334

Telecom carrier brought action against provider of call termination services, alleging that it was billed for services that were never provided.

The Supreme Court of Hawaii held that:

- Powers that were statutorily enumerated to Public Utilities Commission (PUC) did not deprive circuit court of jurisdiction in areas where jurisdiction could overlap;
- Statutes that established PUC's general supervisory power over utilities and their rates and authority over certain billing disputes did not give primary jurisdiction to PUC;
- Application of primary jurisdiction doctrine would have been unfair to carrier;
- Time-period of 120 days in tariff for carrier to object to provider's bill or charges was not a statute of limitations and, thus, could not have been waived as an untimely affirmative defense; and
- Remand was required for the jury to consider 120-day time limitation.

Powers that were statutorily enumerated to PUC did not deprive circuit court of jurisdiction in areas where jurisdiction could overlap. Rather, claims brought in the courts could be subject to the primary jurisdiction doctrine and the filed-rate doctrine, which served to limit the ability of a plaintiff to bring claims in the courts, rather than with the PUC, and those doctrines did not erect barriers to original jurisdiction.