

# **Bond Case Briefs**

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## **PUBLIC UTILITIES - OHIO**

### **In re Fuel Adjustment Clauses for Columbus S. Power Co. & Ohio Power Co.**

**Supreme Court of Ohio - September 3, 2014 - N.E.3d - 2014 -Ohio- 3764**

After conducting annual review of electric utility's recovery of fuel costs pursuant to fuel adjustment clause (FAC), the Public Utilities Commission entered order determining that a portion of proceeds utility had received in settlement agreement with fuel supplier should be credited against utility's underrecovery of its fuel costs. Utility appealed, and association of industrial energy users cross-appealed.

The Supreme Court of Ohio held that PUC's order was not unlawful retroactive ratemaking.

Order of PUC after review of electric utility's recovery of fuel costs pursuant to FAC, determining that a portion of proceeds utility had received in settlement agreement with fuel supplier should be credited against utility's underrecovery of its fuel costs, did not increase utility's generation costs for year prior to the reviewed year, such as would constitute unlawful retroactive ratemaking. Under settlement agreement, utility paid below-market price for coal until end of year prior to reviewed year, after which 20-year contract between utility and supplier was terminated, and PUC's audit report showed that, absent the settlement agreement, utility would have continued to pay below-market fuel costs during reviewed year.

Order of PUC after review of electric utility's recovery of fuel costs pursuant to FAC, determining that a portion of proceeds utility had received in settlement agreement with fuel supplier should be credited against utility's underrecovery of its fuel costs, did not seize proceeds that utility had booked under proper regulatory accounting principles for year prior to reviewed year, such as would constitute unlawful retroactive ratemaking. PUC, not utility, determined whether utility's proceeds had been booked properly.