

Bond Case Briefs

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PUBLIC UTILITIES - CALIFORNIA

Guerrero v. Pacific Gas & Electric Company

Court of Appeal, First District, Division 3, California - October 10, 2014 - Cal.Rptr.3d - 14 Cal. Daily Op. Serv. 11, 809

Ratepayers sued Pacific Gas & Electric Co. for deceptively representing to the California Public Utilities Commission and the public how much revenue it required to provide safe and reliable natural gas service. The class action complaint sought restitution and disgorgement of profits for PG&E's wrongful diversion of more than \$100 million in rates it collected over a thirteen year period that should have been expended on natural gas pipeline safety projects.

The Superior Court sustained demurrer without leave to amend. Ratepayers appealed.

The Court of Appeal held that ratepayers' action would interfere with the Public Utilities Commission's duties and thus was barred.

PUC exercised its authority to adopt a regulatory policy in connection with natural gas utility's alleged diversion of funds that should have been expended on natural gas pipeline safety projects, as required for a lawsuit against utility based on the alleged diversions to be barred by PUC's exercise of exclusive jurisdiction, where the PUC established rates for utility's natural gas transmission operations in five different rate proceedings during the period when funds allegedly were diverted, and PUC initiated four regulatory investigative proceedings after a pipeline explosion.

Ratepayers' putative class action against natural gas utility for restitution and disgorgement of profits for allegedly diverting funds that should have been expended on natural gas pipeline safety projects would interfere with PUC's exercise of its regulatory authority in establishing rates for utility's natural gas transmission operations and initiating regulatory investigative proceedings after a pipeline explosion, and thus ratepayers' action was barred, where the scope of one of PUC's investigations included ascertaining "whether safety violations have occurred, and if so to impose fines and remedies," and the PUC made findings that ratepayers had not been subject to unreasonable costs, and that ratepayers ended up paying rates lower than might have been reasonable due to the absence of the needed safety improvement projects.