

Bond Case Briefs

Municipal Finance Law Since 1971

UTILITIES - TENNESSEE

City of Memphis v. Shelby County

Court of Appeals of Tennessee, at Jackson - February 20, 2015 - Slip Copy - 2015 WL 739849

The ultimate issue in this lawsuit was how much of the electric and gas tax equivalent payments made by the Memphis Light, Gas and Water Division (MLGW) to the City of Memphis must be shared with Shelby County. The City claimed that it overpaid Shelby County in electric tax equivalents in recent years, while Shelby County claimed that it was underpaid in gas tax equivalents. The trial court found that the City paid the correct amount of electric tax equivalent payments for the years in question and rejected the City's claim for damages for alleged overpayment.

The trial court found that Shelby County was not entitled to a share of the gas tax equivalent payments for the years in dispute and rejected its claim for alleged underpayment. Accordingly, the trial court denied both parties' claims for monetary damages. The trial court resolved the parties' requests for declaratory and injunctive relief by declaring the manner and method of payment of the tax equivalents in the future. Both parties raise issues on appeal.

The Court of Appeals held that:

- The City was not entitled to subtract the dividend based payment required by subsection 693(6) of the City Charter from the total tax equivalent payment made by MLGW prior to calculating Shelby County's share;
- Subsection 693(4) of the City Charter calculated tax equivalents on a basis inconsistent with what is dictated under the Electric Law and was therefore repealed by the Electric Law to the extent that the Charter provision applies to the calculation of electric tax equivalent payments;
- The 0.225 multiplier shall be applied to the total tax equivalent payment calculated under Tennessee Code Annotated § 7-52-304 when determining the electric PILOTs due to Shelby County under Tennessee Code Annotated § 7-52-307; and
- Payments due to Shelby County under both the electric and gas tax equivalency laws shall be paid directly to Shelby County by MLGW in accordance with the state statutes."