

Bond Case Briefs

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UTILITIES - TEXAS

Southwestern Bell Telephone, L.P. v. Emmett

Supreme Court of Texas - March 20, 2015 - S.W.3d - 2015 WL 1285326

Telecommunications utility brought action against city, city director of public works and engineering, and county commissioners, seeking injunctive and declaratory relief, alleging that county flood control district was required to be responsible for cost of relocating utility's facilities located on city-owned bridge, in connection with flood control plan requiring demolition and reconstruction of bridge. The District Court granted commissioners' plea to the jurisdiction and entered summary judgment in favor of city and director. Utility appealed. The Houston Court of Appeals affirmed. Utility petitioned for review.

The Supreme Court of Texas held that:

- Statute required district to pay costs of relocation;
- Commissioners acted ultra vires in refusing to comply with statute; but
- Director did not act ultra vires in directing utility to relocate its facilities.

Statute, requiring flood control district to be solely responsible for expense of relocation of telephone properties or facilities when the district has "made necessary" the relocation, applied to require county flood control district to pay costs of relocation of telecommunications utility's facilities located on city-owned bridge, in connection with demolition and reconstruction of bridge as part of flood control project. Project was governed by contract between district and city, requiring city to name district as project manager and giving district power to require city to issue relocation notices to utilities.