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UTILITIES - NEW JERSEY

Township of Wyckoff v. Village of Ridgewood

Superior Court of New Jersey, Appellate Division - July 15, 2015 - Not Reported in A.3d - 2014 WL 10093617

The Village of Ridgewood ("Village") is a municipal corporation that owns and operates the Ridgewood Water Utility ("Utility"). In addition to providing water to the residents of Ridgewood, the Utility provides water to three other municipalities ("Plaintiffs") pursuant to franchise agreements.

Plaintiffs challenged the validity of three ordinances enacted by Ridgewood that increased the water rates charged by the Utility to its customers by a total of thirty-one percent over the course of 2010, 2011, and 2012. Plaintiffs claimed the water rates established in these three ordinances improperly permitted the Utility to include millions of dollars of Ridgewood's municipal operating expenses, such as the cost of providing health insurance to non-Utility employees, police department salaries and expenses, fire department salaries and expenses, and the fees charged by Ridgewood's corporation counsel.

Plaintiffs claimed Ridgewood used the Utility as a means of providing a clandestine form of municipal tax relief to its own residents, consequently imposing an improper tax burden on Plaintiffs' residents in the form of higher water rates. Stated differently, the net effect of these improper allocations of expenses by the Utility created a de facto lack of uniformity between the rates charged to Ridgewood's residents and those charged to non-residents.

Specifically, Plaintiffs claimed that the Utility rate ordinances Ridgewood adopted in 2010, 2011, and 2012 are: (1) inconsistent with N.J.S.A. 40A:31-10(a), which requires annual rental charges to be "uniform and equitable for the same type and class of use"; (2) in violation of N.J.S.A. 40A:31-10(c), which limits the type of costs that can be included in establishing water rates; (3) in violation of the Equal Protection Clause of the United States and New Jersey Constitutions; and (4) arbitrary, capricious, and unreasonable.

The Village asserted that the rates established by the three challenged ordinances are in accordance with the Act and were set at levels sufficient to pay all of its operational expenses, as authorized by N.J.S.A. 40A:31-10(c)(1), as well as include sufficient revenue to establish a surplus or contingency fund to meet unanticipated expenses, as permitted under N.J.S.A. 40A:31-10(c)(2). According to the Village, the Utility would have faced a budget deficit if it had not enacted the rate increases reflected in these three ordinances. Finally, the Village denied that the methodology used to establish the rates in these three ordinances created a de facto rate disparity favoring the residents of Ridgewood at the expense of the ratepayers who reside in the other municipalities. The Village maintains that every Utility customer was charged the same rate, regardless of the customer's place of residence.

Plaintiffs' case was certified as a class action on May 13, 2011. After nearly three years of discovery and motion practice, the parties filed cross-motions for summary judgment, with both sides claiming the case was ripe for disposition as a matter of law. Instead of deciding the summary judgment motions, the Law Division judge invoked her authority under Rule 1:13-4(a)2 and sua sponte

transferred the case to the Board of Public Utilities (BPU). Plaintiffs appealed.

The appeals court reversed, finding nothing in the nature of this controversy and the relief Plaintiffs seek that falls outside the jurisdiction of the Superior Court or is inconsistent with its function and responsibilities under the Prerogative Writ Clause of the New Jersey Constitution.

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