

Bond Case Briefs

Municipal Finance Law Since 1971

PUBLIC UTILITIES - TENNESSEE

Town of Smyrna, Tenn. v. Municipal Gas Authority of Georgia

United States District Court, M.D. Tennessee, Nashville Division - September 10, 2015 - F.Supp.3d - 2015 WL 5306058

Town brought action against gas authority under the Tennessee Consumer Protection Act (TCPA) and the Tennessee False Claims Act (TFCA) and asserted claims for breach of fiduciary duty and breach of contract, arising out of gas authority's placing multi-year hedges on its behalf. Gas authority moved for dismissal and summary judgment.

The District Court held that:

- Doctrine of quod nullum tempus occurit regi, under which the sovereign is exempt from the consequences of its laches, did not apply to town's untimely claim under TCPA;
- Town knew or should have known of gas authority's actions regarding execution of hedges over a year before town brought action, and thus action was not timely;
- Town failed to meet its burden of proof under doctrine of equitable estoppel to toll statute of limitations on TCPA claim;
- Gas authority qualified as a person subject to TFCA;
- Fact issues precluded summary judgment on issue of whether gas authority violated TFCA;
- Fact issues precluded summary judgment on issue of whether gas authority was a fiduciary to town; (and
- Fact issues precluded summary judgment on towns breach of contract claim.